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| Attorney or Party Name, Address, Telephone and Fax Number, and CA State Bar No. | | FOR COURT USE ONLY |
| <p>Leonard M. Shulman - Bar No. 126349 Robert E. Huttenhoff - Bar No. 214447 SHULMAN HODGES & BASTIAN LLP 26632 Towne Centre Drive, Suite 300 Foothill Ranch, California 92610-2808 Telephone: (949) 340-3400 Facsimile: (949) 340-3000 Email: lshulman@shbllp.com; rhuttenhoff@shbllp.com</p> <p>General Counsel for Huntley G. Hoilett and Juliana C. Hoilett the Debtors and Debtors in Possession</p> | | |
| UNITED STATES BANKRUPTCY COURT CENTRAL DISTRICT OF CALIFORNIA | | |
| In re: HUNTLEY G. HOILETT and JULIANA C. HOILETT, Debtors. | | CASE NO.: 2:09-14214-ER Chapter 11 |

NOTICE OF SALE OF ESTATE PROPERTY

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| Sale Date: See attached regarding the following important deadlines: April 9, 2010 - Deadline for Submitting Bids April 13, 2010 at 10:00 a.m., Final Auction Sale April 14, 2010 at 10:00 a.m., Court Hearing | Time: See Attached Notice and Motion |
| Location: See attached Notice of Motion and Debtors' Motion For Order: (1) Approving Two Sale Transactions For: (A) the Estate's Interest in Certain Real Property of the Estate, and (B) Certain Easement Assets, with the Sales to be Free and Clear of Liens Pursuant to Bankruptcy Code Section 363(b)(1) and (f); (2) Combined with Notice of Bidding Procedures and Request for Approval of the Bidding Procedures Utilized; (3) Approving a Purchase Agreement in Connection with the Sale of the Real Property and Approving Easement Acquisition Agreement in Connection with the Easement Asset Sale; (4) Approving Payment of Real Estate Commission and Other Costs of Sale; and (5) Granting Other Related Relief ("Notice and Motion"). | |

Type of Sale: ☒ Public ☐ Private Last date to file objections: March 31, 2010

Description of Property to be Sold: Real property located at 1808 Abalone Avenue, Torrance, California and certain easement assets - see attached Notice and Motion.

Proposed Sale Price: See the attached Notice and Motion

Overbid Procedure (If Any): See the attached Notice and Motion

If property is to be sold free and clear of liens or other interests, list date, time and location of hearing:

April 14, 2010 at 10:00 A.M., in Courtroom 1568 located at 255 East Temple Street, Los Angeles, CA

Contact Person for Potential Bidders (include name, address, telephone, fax and/or e:mail address):

Attorneys for the Debtors
Leonard M. Shulman, Esq. and Robert E. Huttenhoff, Esq.
Shulman Hodges & Bastian LLP
26632 Towne Centre Drive, Suite 300
Foothill Ranch, CA 92610
Telephone: (949) 340-3400; Facsimile: (949) 340-3000
Email: lshulman@shbllp.com; rhuttenhoff@shbllp.com

Date: **February 25, 2010**

COPY

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General Counsel for Huntley G. Hoilett and Juliana C. Hoilett
the Debtors and Debtors in Possession

UNITED STATES BANKRUPTCY COURT
CENTRAL DISTRICT OF CALIFORNIA, LOS ANGELES DIVISION

In re

**HUNTLEY G. HOILETT and
JULIANA C. HOILETT,**

Debtors.

Case No. 2:09-14214-ER
Chapter 11

**NOTICE OF MOTION AND DEBTORS' MOTION FOR
ORDER:**

- (1) **APPROVING TWO SALE TRANSACTIONS FOR: (A) THE ESTATE'S INTEREST IN CERTAIN REAL PROPERTY OF THE ESTATE, AND (B) CERTAIN EASEMENT ASSETS, WITH THE SALES TO BE FREE AND CLEAR OF LIENS PURSUANT TO BANKRUPTCY CODE SECTION 363(b)(1) AND (f);**
- (2) **COMBINED WITH NOTICE OF BIDDING PROCEDURES AND REQUEST FOR APPROVAL OF THE BIDDING PROCEDURES UTILIZED;**
- (3) **APPROVING A PURCHASE AGREEMENT IN CONNECTION WITH THE SALE OF THE REAL PROPERTY AND APPROVING EASEMENT ACQUISITION AGREEMENT IN CONNECTION WITH THE EASEMENT ASSET SALE;**
- (4) **APPROVING PAYMENT OF REAL ESTATE COMMISSION AND OTHER COSTS OF SALE; AND**
- (5) **GRANTING OTHER RELATED RELIEF**

**MEMORANDUM OF POINTS AND AUTHORITIES;
DECLARATION OF HUNTLEY C. HOILETT IN SUPPORT
THEREOF**

[Property Located at: 1808 Abalone Avenue, Torrance, CA]

Date: April 14, 2010
Time: 10:00 a.m.
Place: Courtroom 1568, 15th Floor
255 East Temple Street, Los Angeles, CA

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I. NOTICE

**TO THE HONORABLE ERNEST M. ROBLES, UNITED STATES BANKRUPTCY
JUDGE, THE OFFICE OF THE UNITED STATES TRUSTEE, AND CREDITORS AND
PARTIES-IN-INTEREST:**

PLEASE TAKE NOTICE that on **April 14, 2010, at 10:00 a.m.**, in Courtroom 1568 on the 15th Floor of the above-entitled Court located at 255 East Temple Street, Los Angeles, California, Huntley G. Hoilett and Juliana C. Hoilett, the debtors and debtors in possession herein (collectively the “Debtors”) will bring a Motion For Order: (1) Approving Two Sale Transactions For: (A) the Estate’s Interest in Certain Real Property of the Estate, and (B) Certain Easement Assets, with the Sales to be Free and Clear of Liens Pursuant to Bankruptcy Code Section 363(b)(1) and (f); (2) Combined with Notice of Bidding Procedures and Request for Approval of the Bidding Procedures Utilized; (3) Approving a Purchase Agreement in Connection with the Sale of the Real Property and Approving Easement Acquisition Agreement in Connection with the Easement Asset Sale; (4) Approving Payment of Real Estate Commission and Other Costs of Sale; and (5) Granting Other Related Relief (“Sale Motion”).

The Sale Motion is based upon this Notice of the Sale Motion, the Sale Motion and Memorandum of Points and Authorities in Support thereof, the Declaration of Huntley C. Hoilett, the pleadings and files in the Debtors’ bankruptcy case, and upon such further oral and documentary evidence as may be presented to the Court in support of the Sale Motion.

PLEASE TAKE FURTHER NOTICE that any opposition or other responsive paper to the Sale Motion must be filed with the Clerk of the above-entitled Court and a copy served on Shulman Hodges & Bastian LLP to the attention of Robert E. Huttenhoff at the address indicated above and the Office of the United States Trustee, Ernst & Young Plaza, 725 South Figueroa Street 26th Floor, Los Angeles, CA 90017 at least fourteen days prior to the hearing in the form required by **Local Bankruptcy Rule 9013-1(f)**.

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1 **PLEASE TAKE FURTHER NOTICE** that failure to file a timely response may be
2 deemed as consent to the relief requested in the Motion. **SEE, LOCAL BANKRUPTCY**
3 **RULE 9013-1(h).**

4
5 Dated: February 24, 2010

SHULMAN HODGES & BASTIAN LLP

6
7 /s/ Leonard M. Shulman

8 Leonard M. Shulman.
9 Robert E. Huttenhoff
10 Attorneys for Huntley G. Hoilett and Juliana C. Hoilett, the
11 Debtors and Debtors in Possession
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1 **II. INTRODUCTION**

2 As set forth in more detail below, the Debtors have received an to purchase their
3 Commercial Property¹ for \$1,200,000. The Debtors also have a separate offer to purchase the
4 Easement Assets associated with the Commercial Property for \$220,000. Both of these sales are
5 subject to the Bidding Procedures set forth below. Such Bidding Procedures will allow potential
6 bidders to submit their bids for either (1) the Commercial Property without the Easement Assets,
7 (2) the separate Easement Assets or (3) jointly for the Commercial Property and Easement Assets
8 as one sale transaction.

9 The Debtors will conduct an Auction of the Commercial Property and Easement Assets
10 pursuant to reasonable and comprehensive Bidding Procedures set forth below. The bidding at
11 the Auction will continue until no other bids are made and the party who submits the highest and
12 best bid, as determined by Debtors using their reasonable business judgment, shall be deemed to
13 be the Successful Bidder. Following the Auction, at the hearing on this Sale Motion, the Debtors
14 will seek Court approval of the sale of the Commercial Property and the Easement Assets to the
15 Successful Bidder(s). The Debtors believe that the orderly, fair, and open bidding under the
16 proposed Bidding Procedures will maximize the value of the Commercial Property and the
17 Easement Assets for the Estate.

18 The Debtors' bankruptcy case was commenced in reaction to a pending foreclosure sale
19 of the Commercial Property. The Debtors are in default to the secured lender on the Commercial
20 Property, Wells Fargo Bank as successor in interest to Wachovia Bank ("Wachovia"), and have
21 inadequate cash flow to make payments to the secured lender. The Debtors have determined that
22 the best way to create an and maximize an immediate recovery for creditors is to consummate a
23 sale of the Commercial Property and Easement Assets free and clear of all Liens and
24 Encumbrances². The proposed sale will allow the Debtors to generate immediate cash to pay the
25 allow amount of Wachovia's claims in full as well as generate cash for funding a Chapter 11
26 plan that will benefit the Estate and its creditors. The alternative would be to lose the

27 ¹ Capitalized terms are defined below.

28 ² "Liens and Encumbrances" means any and all liens, claims, and encumbrances of any nature whatsoever.

Commercial Property to a foreclosure sale to Wachovia, which would benefit no unsecured creditors.

In addition, the Debtors seek approval of the payment of real estate commission and other costs of sale associated with the sale of the Commercial Property.

The Bidding Procedures proposed and being utilized by the Debtors are fair and provide for a “level playing field” for all prospective bidders. The Bidding Procedures establish a reasonable but expeditious timeline for allowing the Debtors to give notice of the proposed sale and qualified bidders to conduct reasonable due diligence and submit competing offers, thereby potentially generating additional value for the Commercial Property and Easement Assets.

The Debtors believes the only option available is the orderly sale of the Commercial Property and Easement Assets subject to the Bidding Procedures set forth below and based on good business reasons, including the current real estate market and the economics of the Debtors’ situation, it is in the best interest of the creditors of this Estate that this Sale Motion be approved so that the Debtors do not lose these favorable business opportunity.

III. SALE MOTION

In support of the Sale Motion, the Debtors respectfully represent as follows:

A. Case Commencement

The Debtors filed a petition under Chapter 11 of the Bankruptcy Code on February 25, 2009 (“Petition Date”), and have continued in the possession of their property and the management of their affairs.

B. Case Background Information

The Debtors are the 100% shareholders of HGH Graphic & Display Productions Inc. dba GDP Designs (“GDP”). GDP is a full service design management studio with extensive capabilities that are fully integrated to provide solutions to create promote and support corporate marketing and communication strategies. GDP provides innovative design solutions for corporate logo, brand identity, packaging, brochures, digital media, annual reports, the design and fabrication of point of purchase, retail, tradeshow and exhibit displays. Debtor Huntley G. Hoilett started GDP after working for a California top 100 company for thirteen years.

Mr. Hoilett grew GDP to a very successful design and display production company employing upwards of eight designers and ten sign and display workers with annual revenue averaging more than \$600,000 annually. Clients of GDP included Lowes Home Improvement, Dunn Edwards Paint, Reebok, Home Depot, PetCo and numerous other manufacturers and local companies.

Assets of the Debtors' Estate includes the real property located at 1808 Abalone Avenue, Torrance, California (Assessor Parcel No. 7357-026-055 ("Commercial Property"), which is legally described as follows³:

PARCEL A

PARCEL 1 OF PARCEL MAP NO.10087, IN THE city of TORRANCE, COUNTY OF LOS ANGELES, STATE OF CALIFORNIA, AS PER MAP FILED IN BOOK 93, PAGES 1 AND 2 OF PARCEL MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY.

PARCEL B:

AN EASEMENT FOR INGRESS AND EGRESS OVER THOSE PORTIONS OF PARCELS 2 AND 3 OF PARCEL MAP NO. 10087, IN THE CITY OF TORRANCE, COUNTY OF LOS ANGELES, STATE OF CALIFORNIA, AS PER MAP FILED IN BOOK 93 PAGES 1 AND 2, OF PARCEL MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY, INCLUDED WITHIN THE LINES OF THAT CERTAIN AREA DESIGNATED ON SAID MAP.

The Commercial Property was valued in the Debtors' Bankruptcy Schedule A at \$2,800,000. However, as this time the Debtors believe that the value of the Commercial Property is less and is currently listed for sale at \$1,850,000.

The Debtors have a lease with American Tower Corp related to a communications cell tower easement ("Cell Tower") located on the Commercial Property. The Debtors receive monthly rent of \$1,648 under the Cell Tower related lease and easement ("Cell Tower Lease"). The proposed separate sale of the Easement Assets herein relates to the Cell Tower easement.

³ The legal description for the Commercial Property is believed to be accurate but may be corrected or updated by the title company in the transfer documents as necessary to complete the proposed sale transaction.

C. Events Leading to the Bankruptcy Filing

The Debtors purchased the Commercial Property in late 2002 using their savings and securing financing through the U.S. Small Business Administration. The Commercial Property was purchased in an “as is” condition and included an approximately 10,000 square foot building with a small office situated on lot of approximately 20,974 square feet. At the time the Commercial Property was purchased it was in a state of disrepair. Over the next three years, with additional financing, the Commercial Property was completely renovated, including new roofing, HVAC, electrical, and plumbing and also included a mezzanine that increased the size of the building to approximately 12,420 square feet.

As a result of the anticipated disruption to GDP’s business activities caused by the remodeling there was a sharp drop in revenue from \$475,000 to \$265,000 from 2003 to 2004. This drop was made more severe in 2005 due to the loss of a major client who was responsible for average revenue of more than \$270,000 for more than four years running.

GDP instituted drastic cost saving measures to stem the losses, including layoffs. The Debtors and the two remaining fulltime employees worked to improve sales and boost revenue, by working longer hours and securing new clients and offering new products and services. The Debtors suspended receiving their salaries from mid 2005 to the present. As such, in order to pay expenses and the mortgage on the Commercial Property, the Debtors borrowed additional funds by taking second and third mortgages on their personal residence and other lines of credit. As a result of these efforts revenue for 2007 improved.

Despite the improved revenue in 2007, with the dramatic slowdown in the economy throughout the United States that started in December of 2007 and that continues today, the decision was made in January of 2008 to further downsize GDP’s business operations and put Commercial Property up for sale. The Debtors intended to sell the Commercial Property and use the proceeds to pay creditors, eliminate their biggest fix expense, namely the mortgage on the Commercial Property and further downsize the GDP’s business operations commensurate with the level of opportunities in this economic slowdown. During this period, from January 2008 through December 2008 the Debtors, in an effort to stay current with their secured creditors and

1 other obligations withdrew over \$150,000 from their retirements accounts and aggressively
2 marketed the Commercial Property for sale. However, the Debtors defaulted on their loans from
3 Wachovia secured by the Commercial Property in July of 2008.

4 **D. Prior Attempts to Administer the Commercial Property**

5 Prior to the Petition Date, in an attempt to cure the Wachovia defaults, the Debtors
6 successfully negotiated a transaction to sell their interest in the lease related to the Cell Tower
7 and secured a tenant to lease the Commercial Property. However, Wachovia refused to agree to
8 either (1) the sale of the Cell Tower related easement and lease or (2) the lease of the
9 Commercial Property to a new tenant. As result, the Debtors sought protection under the
10 Bankruptcy Code in order to preserve their equity in the Commercial Property for the benefit of
11 all of their creditors.

12 At the onset of their bankruptcy case, the Debtors intended to lease the Commercial
13 Property in order to fund a cure of the defaults for Wachovia and generate proceeds for the
14 benefit of creditors. In fact, the bankruptcy filing was commenced with the purpose of
15 cramming down the prepetition lease offer for the Commercial Building and separate sale of the
16 Cell Tower that had been rejected by Wachovia prior to the Petition Date. Despite Wachovia's
17 rejection, the Debtors believed that such disposition of the Commercial Property and Cell Tower
18 would have resulted in a seven month cure of outstanding principal and interest plus five months
19 of principal and interest payment for Wachovia to hold on deposit. At that time Wachovia was
20 owed approximately \$940,000. The Debtors believe that with this prior transaction, Wachovia
21 would have been assured payment in full and the general unsecured creditors would have
22 received a significant distribution on their claims. However, Wachovia again rejected the
23 request during the bankruptcy case and the proposed lessee backed out of the deal.

24 Since that time, the Debtors have continued to market the Commercial Property for both
25 lease and for sale in order to obtain an offer that would result in the greatest distribution to all
26 creditors. Without a doubt, the prior offer rejected from Wachovia is significantly higher than
27 the current offers for either lease or sale.

28

The most recent offers received for the Commercial Property included a lease offer at \$.62 per square foot. Another offer was to purchase the Commercial Property, excluding Cell Tower lease and related easement, for \$1,400,000, which was later withdrawn. A letter of intent at \$1,250,000 was received but the potential buyer did not want to submit to the bidding process.

Based on the marketing history, it is the opinion of the Debtors and their real estate professional that any future offers to lease or purchase the Commercial Property will not likely improve significantly anytime in the near future. As stated, the Commercial Property is currently listed at \$1,850,000. There are multiple parties interested who have expressed interest, however, these potential buyers continue to present low ball offers. As such, the Debtors believe that selling the Commercial Property subject to the Bidding Procedures set forth below, will result in an Auction process that will net the largest potential recovery for the Estate and its creditors in the current real estate market.

E. Liens and Encumbrances Related to the Commercial Property and Their Proposed Treatment Under the Sale

The following chart summarizes the Liens and Encumbrances against the Commercial Property and their proposed treatment under the proposed sale:

| Secured Creditor | Description of Claim | Amount | Treatment |
|----------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------|------------------------------------------------------------------------------------------------------------------------------------------|
| Los Angeles County Tax Collector | Real Property Taxes \$6,300 (2007) \$11,404 (2008) \$12,013.64 (2009) | \$29,717.64 | All outstanding real property taxes will be paid through escrow on the sale transaction. |
| Wachovia | Incurred 12/2002 First Trust Deed Commercial Property Wachovia asserts that as of February 10, 2010, the outstanding balance including principal and interest is \$678,658.75 | \$678,658.75 | This claim shall be paid through escrow on the sale transaction, thus, the Commercial Property shall be sold free and clear of the lien. |

| Secured Creditor | Description of Claim | Amount | Treatment |
|------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Wachovia | Incurred 05/2005 Second Trust Deed Commercial Property Wachovia asserts that as of February 10, 2010, the outstanding balance including principal and interest is \$370,031.47 | \$370,031.47 | This claim shall be paid through escrow on the sale transaction, thus, the Commercial Property shall be sold free and clear of the lien. |
| Yvonne Yancy | Incurred 04/08 Judgment Lien | \$24,000 | The Debtors dispute the validity of the security interest of the claim of Yvonne Yancy and believe that there are causes of action to have the lien set aside under Bankruptcy Code Sections 547 and/or 548 as she is an "insider" as that term is defined in the Bankruptcy Code and the lien was recorded within one year prior to the Petition Date. As it is subject to a bona-fide dispute, the Debtors seek to sell the Commercial Property free and clear of the lien in favor of Yvonne Yancy, with such disputed lien to attach to the proceeds of the sale in the same validity and priority as prior to the sale pending agreement with the creditor or further Court order. |
| | Total | \$1,102,407.86 | |

F. The Proposed Sales of the Commercial Property and Easement Assets

The sale the Commercial Property and the sale of the Easement Assets shall proceed to the Successful Bidder(s) as that term is defined below, free and clear of all Liens and Encumbrances.

**1. The Proposed Separate Sale of the Commercial Property (without the
Easement Assets)**

In order to commence the Auction process however, subject to Court approval and the Bidding Procedures set forth below, the Debtors will accept the offer received from Ernest Emerson and Mary Emerson, or their assignee (collectively the “Commercial Property Buyer”). A true and correct copy of the Commercial Property Purchase Agreement and Joint Escrow Instructions from the Buyer is attached to the Declaration of Huntley Hoilett (“Hoilett Declaration”) as **Exhibit 1**. For the sake of brevity, the purchase offer and sale terms are not fully described herein as a copy of the offer is attached to the Hoilett Declaration as **Exhibit 1**. Also, a copy of the offer may be obtained by contacting Debtors’ counsel at the address indicated on the first of this Motion. The principal terms of the Commercial Property Buyer’s offer are as follows:

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|-----------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Purchase Price: | <p>\$1,200,000, or an amount as increased by successful overbid (\$50,000 deposit and balance due at closing consisting of loan in the amount of \$1,080,000 and \$70,000 cash). Offer is subject to SBA loan approval in the amount of \$1,080,000 at an interest rate of 6.5%. The Commercial Property Buyer has provided a letter from Cal Metro Mortgage Services advising that the Commercial Property Buyer has been pre-approved for the loan. A copy of such pre-approval letter is included with Exhibit 1.</p> <p>Note – the Debtors are advising the Commercial Property Buyer that:</p> <ul style="list-style-type: none"> • The purchase price and sale is subject to the Bidding Procedures set forth below and that after removal/waiver of ALL contingencies, the Commercial Property Buyer’s deposit is refundable only if overbid other than from Commercial Property Buyer is confirmed by the Court. • The sale of the Commercial Property under the offer from the Commercial Property Buyer does not include the Cell Tower related lease and easement. The easement related to the Cell Tower is the subject of a separate sale transaction. • Under the proposed Bidding Procedures, bidders will be allowed to submit their bids for either (1) the Commercial Property without the Easement Assets, (2) the separate Easement Assets or (3) jointly for the Commercial Property and Easement Assets as one sale transaction. In the event a successful overbid is received for the joint purchase of the Commercial Property that includes the Cell Tower easement and such offer is deemed to be more beneficial for the Estate than conducting separate sales, the Debtors may seek to sell the Commercial Property with the Cell Tower easement as one sale transaction. |
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|-------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Escrow Holder: | Seller's Choice - To be Determined. |
| Environmental Survey | A phase one environmental survey shall be provided to the Commercial Property Buyer within fourteen days of acceptance of the offer. |
| Due Diligence Period | <p>The offer provides that the Commercial Property Buyer shall have twenty-one days after acceptance to conduct and complete due diligence including a review of Seller's disclosures, review of property surveys, title, environmental, and physical inspection.</p> <p>Under the Bidding Procedures, the Commercial Property Buyer shall have a period until <u>one day prior to the Auction Date</u> to conduct due diligence including a review of Seller's disclosures, review of property surveys, title, environmental, and physical inspection. All costs related to Commercial Property Buyer's due diligence shall be paid the Commercial Property Buyer.</p> |
| Title Insurance: | The title insurance policy shall be subject only to liens, encumbrances, clouds and other matters as may appear on the preliminary title report, that are not to be removed at the close of escrow, and have not been objected to by Commercial Property Buyer. Should Seller be unwilling or unable to eliminate those title matters disapproved by Commercial Property Buyer as above, the Seller may terminate this sale agreement or; should Seller fail to deliver good and marketable title as provided above, Seller and Commercial Property Buyer may terminate the Agreement. In either case, the Commercial Property Buyer's deposit shall be returned to the Commercial Property Buyer, and Commercial Property Buyer shall have no recourse against Seller or their counsel Shulman, Hodges & Bastian LLP, the Seller's Estate, or any real estate agent, broker or attorney involved in this transaction. |
| Outstanding Real Property Taxes: | To be paid by Seller through escrow |
| Allocation of Costs: | <p>Escrow Fees – Commercial Property Buyer and Seller to each pay their own costs</p> <p>Seller shall pay for sewer connection if required by law, septic or private sewage disposal system inspection, natural hazard zone disclosure report, smoke detector installation and/or water heater bracing, if required by law, cost for compliance with any other minimum mandatory government retrofit standards, installation of approved fire extinguishers, sprinklers, and hoses if required by law, inspections and reports if required by law as a condition of closing.</p> <p>Seller shall pay for County and/or City transfer taxes or transfer fees and and/or government retrofit requirements, if necessary.</p> <p>Seller shall pay for owner association transfer fees and document preparation fees.</p> |
| Allocation of Costs: (Other Customary Costs) | Other normal costs of sale as is customary in the state of California shall be paid by Commercial Property Buyer and Seller. |

| | | | | | | | |
|--------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------|----------|--------------------------------------------------------|----------|------------------|----------|
| Closing Date: | April 20, 2010. | | | | | | |
| Real Estate Commission: | <p>The Debtors seeks authorization to pay a listing real estate broker commission to Sellers agent, Michael Douglas of Coldwell Banker Tri-Counties Realty and a selling commission to the Commercial Property Buyer's real estate agent, Linda Wilson and Karen Price of Windermere Real Estate, in the total amount not to exceed six percent of the purchase price with such commission to be split 50/50 as follows:</p> <table> <tr> <td>Michael Douglas of Coldwell Banker Tri-Counties Realty</td><td>\$36,000</td></tr> <tr> <td>Linda Wilson and Karen Price of Windermere Real Estate</td><td>\$36,000</td></tr> <tr> <td>Total Commission</td><td>\$72,000</td></tr> </table> | Michael Douglas of Coldwell Banker Tri-Counties Realty | \$36,000 | Linda Wilson and Karen Price of Windermere Real Estate | \$36,000 | Total Commission | \$72,000 |
| Michael Douglas of Coldwell Banker Tri-Counties Realty | \$36,000 | | | | | | |
| Linda Wilson and Karen Price of Windermere Real Estate | \$36,000 | | | | | | |
| Total Commission | \$72,000 | | | | | | |
| Cell Tower Excluded From the Sale | The sale of the Commercial Property does not include the Cell Tower related lease and easement, which will be retained by the Debtor's Estate. | | | | | | |
| Purchase without Warranties: | <p>The Debtors are advising the Commercial Property Buyer that the Commercial Property Buyer shall acknowledge that they are purchasing the Commercial Property without warranties of any kind, expressed or implied, being given by the Seller, concerning the condition of the property or the quality of the title thereto, or any other matters relating to the Commercial Property. Commercial Property Buyer represents and warrants that they are purchasing the Commercial Property as a result of their own investigations and are not buying the Commercial Property pursuant to any representation made by any Broker, Agent, Accountant, Attorney or Employee acting at the direction, or on the behalf of the Seller. Commercial Property Buyer acknowledges that they have inspected the Commercial Property, and upon closing of escrow, Commercial Property Buyer forever waives, for himself and herself, their heirs, successors and assigns, and all claims against the Sellers, their attorneys, agents and employees, the Seller's Estate, and their attorneys, agents and employees, arising or which might otherwise arise in the future concerning the Commercial Property.</p> | | | | | | |

2. The Proposed Separate Sale of the Easement Assets

The Debtors intend to sell certain easements related to the Commercial Property pursuant to the terms of that certain "Easement Acquisition Agreement" entered into with the proposed Easement Assets Buyer. A copy of the Easement Acquisition Agreement is attached as **Exhibit 2** to the Hoilett Declaration. The "Easement Assets Buyer" is SpectraSite Communications, LLC, a Delaware limited liability company (or "SpectraSite" as the context requires) is affiliated with the American Tower Corp, the lessee under the Cell Tower Lease (such affiliate, "ATC").

1 The sale shall proceed to the Successful Bidder free and clear of all Liens and
2 Encumbrances. Under the Easement Acquisition Agreement, the purchase price is \$220,000,
3 subject to overbids.

4 For the sake of brevity, the Easement Acquisition Agreement is not fully described
5 herein. However, a copy of the Easement Acquisition Agreement is attached to the Hoilett
6 Declaration as **Exhibit 2**. Also, a copy of the Easement Acquisition Agreement may be obtained
7 by contacting Debtors' counsel at the address indicated on the first of this Sale Motion.

8 The assets to be sold pursuant to the Easement Acquisition Agreement (the "Easement
9 Assets") are set forth in detail in the Easement Acquisition Agreement attached as **Exhibit 2** to
10 the Hoilett Declaration and are briefly described as follows:

11 • Easements to be Granted and Purchased and Assignment of Lease. On the terms,
12 and subject to the conditions set forth in the Easement Acquisition Agreement and subject to and
13 in compliance with the Bidding Procedures set forth below, at Closing, Seller shall sell and grant
14 to the Easement Assets Buyer, or an affiliate of Easement Assets Buyer designated in writing to
15 Seller prior to the Closing, and the Easement Assets Buyer or a "Successful Bidder" (as defined
16 below) agrees to purchase from Seller: (i) a perpetual, exclusive easement (the "Exclusive
17 Easement") in and to that portion of the Premises as set forth in that certain "Easement
18 Agreement" executed between the Easement Assets Buyer and the Debtors and attached as
19 Exhibit B to the Easement Acquisition Agreement, for the purpose of the Permitted Use (as such
20 term is defined in Section 1.2 of the Easement Acquisition Agreement); and (ii) a perpetual, non-
21 exclusive easement in and to that portion of the Premises more particularly described on Exhibit
22 C to the Easement Acquisition Agreement (the "Access and Utility Easement"), for the Access
23 and Utility Uses (as such term is defined in Section 1.3 of the Easement Acquisition Agreement).

24 • The term "Access and Utility Uses" means vehicular and pedestrian access from
25 and to the Exclusive Easement, and the installation, location, construction, operation,
26 maintenance, repair, modification, relocation, replacement, and removal by Easement Assets
27 Buyer or a Successful Bidder, its customers, lessees, sublessees, licensees, agents, successors and
28 assigns of storm sewer lines, sanitary sewer pipes, water and gas mains, electric power lines,

telephone lines, data lines and other utility lines serving the real property encompassed by the Exclusive Easement.

• On the terms, and subject to the conditions set forth in Easement Acquisition Agreement, at Closing, Seller shall assign to the Easement Assets Buyer, or a Successful Bidder, and the Easement Assets Buyer or a Successful Bidder shall assume from Seller all rights and obligations of Seller as lessor under the Cell Tower Lease arising or accruing on or after the Closing, provided that Easement Assets Buyer or a Successful Bidder hereby agrees to indemnify Seller for all matters arising under the Cell Tower Lease following the date of Closing (such assumed obligations, the "Assumed Obligations"). The Assumed Obligations pertain to SpectraSite.

3. Estimated Net Proceeds From the Two Sales

The Debtors anticipate that the sales of the Commercial Property and Easement Assets will generate net funds of approximately \$245,592.14 for the Estate as follows:

| | | |
|---------------------------------------------------------------------------------------------------------------------------------------------|----------------|------------------|
| Purchase Price – Commercial Property | \$1,200,000 | |
| Purchase Price – Easement Assets | \$220,000 | |
| Total Sale Proceeds | | \$1,420,000 |
| Less: Real Property Taxes | (\$29,717.64) | |
| Less: Wachovia First Lien | (\$678,658.75) | |
| Less: Wachovia Second Lien | (\$370,031.47) | |
| Less: Estimated Costs of Sale on the Commercial Property (estimated at 8%) | (\$96,000) | |
| Total Distributions | | (\$1,174,407.86) |
| Estimated Net Equity to the Estate to which the Lien of Yvonne Yancy will attach pending agreement with the creditor or further Court order | | \$245,592.14 |

In the event the Commercial Property and/or the Easement Assets are sold to a higher Successful Bidder, the estimated net proceeds will increase accordingly.

IV. NOTICE OF BIDDING PROCEDURES

The Debtors have determined that they can best ensure the maximization of the value of the Commercial Property and Easement Assets by conducting an auction pursuant to which all interested parties will have the opportunity to receive information and bid on the Commercial

Property and Easement Assets instead of selling to the Commercial Property Buyer and the Easement Assets Buyer on an exclusive basis. Accordingly, in order to obtain the highest and best offer for the benefit of the creditors of this Estate, the Debtors are utilizing the following bidding procedures ("Bidding Procedures") and request that Court order approving the sale of the Commercial Property and the Easement Assets to the Successful Bidder(s) also provides for approval of the following Bidding Procedures (for ease of reference, the Debtors are referred to as the "Seller" and the Commercial Property is referred to as the "Property" in the following Bidding Procedures):

1. Delivery of Qualified Bids and Bid Deadline.

a. Potential bidders may submit their bids for either (1) the Commercial Property without the Easement Assets, (2) the separate Easement Assets or (3) jointly for the Commercial Property and Easement Assets as one sale transaction.

b. **A QUALIFIED BIDDER (DEFINED BELOW) THAT DESIRES TO MAKE A BID SHALL DELIVER WRITTEN COPIES OF ITS BID TO SELLER'S REAL ESTATE BROKER/AGENT MICHAEL DOUGLAS OF COLDWELL BANKER TRI-COUNTIES REALTY NOT LATER APRIL 9, 2010 (THE "BID DEADLINE").** The Seller may with notice to Qualified Bidders extend the Bid Deadline once or successively, but is not obligated to do so. If the Seller extends the Bid Deadline, the Seller shall promptly notify all Qualified Bidders of the extension.

c. **Commercial Property:** A bid is a letter from a Qualified Bidder stating that (i) the Qualified Bidder offers to purchase the Property upon the terms and conditions set forth in standard Commercial Property Purchase Agreement and Escrow Instructions ("Purchase Agreement") in the form attached as hereto **Exhibit 1**, marked to show those amendments and modifications to the Purchase Agreement, including price and terms, that the Qualified Bidder proposes (the "Marked Agreement") and (ii) the Qualified Bidder's offer is irrevocable until forty-eight hours after the closing of the sale of the Property, whether or not to such Qualified Bidder. A Qualified Bidder shall accompany its bid with written evidence of a commitment for financing or other evidence of ability to consummate the transaction.

d. **Easement Assets:** A bid is a letter from a Qualified Bidder stating that (i) the Qualified Bidder offers to purchase the Easement Assets upon the terms and conditions set forth in the Easement Acquisition Agreement in the form attached as hereto **Exhibit 2**, marked to show those amendments and modifications to the Easement Acquisition Agreement, including price and terms, that the Qualified Bidder proposes (the "Marked Agreement") and (ii) the Qualified Bidder's offer is irrevocable until forty-eight hours after the closing of the sale of the Property, whether or not to such Qualified Bidder. A Qualified Bidder shall accompany its bid with written evidence of a commitment for financing or other evidence of ability to consummate the transaction. The potential overbidders for the Easement Assets must bid an initial amount of at least \$10,000 over the purchase price offered for the Easement Assets by the Easement Assets Buyer. Thus, the initial overbid must be at least \$230,000.

e. The Seller will consider a bid only if the bid:

i. Provides for a value to the Seller that will allow the Seller to satisfy all Liens and Encumbrances against the Property and provide a distribution to general unsecured creditors.

ii. Is on terms that, in Seller's business judgment, are not materially more burdensome or conditional than the terms of the Commercial Purchase Agreement and/or the Easement Acquisition Agreement.

iii. Are not conditioned on obtaining financing or on the outcome of unperformed due diligence by the bidder with respect to the Property sought to be acquired, but may be subject to the accuracy in all material respects at the closing of that transaction of specified representations and warranties or the satisfaction in all material respects at the closing of that transaction of specified conditions, none of which shall be materially more burdensome than those set in the Purchase Agreement and/or the Easement Acquisition Agreement.

iv. Does not request or entitle the bidder to any break up fee, termination fee, expense reimbursement or similar type of payment; and

v. Does not prohibit disclosure of its terms to other Qualified Bidders.

vi. Is accompanied by a deposit consisting of certified funds in the amount of \$50,000 (the "Bidder Deposit") that will be non-refundable if the bidder is the Successful Bidder, however, if, due to the fault of the Successful Bidder, the Successful Bidder fails to pay the Bankruptcy Court approved purchase price by the closing date as such date is determined by the winning bid, the Successful Bidder expressly and unconditionally forfeits his Bidder Deposit and all such amounts become nonrefundable.

f. A bid received from a Qualified Bidder that meets the above requirements, as determined in Seller's sole discretion, is a "Qualified Bid". A Qualified Bid shall be valued based upon factors such as (i) the amount of the Qualified Bid, (ii) the amount of Estate's liabilities to be assumed and (iii) the net value provided to estate. If the Seller and the bidder or other interested parties cannot agree on the correct value to be ascribed to the Qualified Bid, then the parties shall seek a ruling from the Bankruptcy Court.

2. The Auction Process:

a. Within forty-eight hours after expiration of the Bid Deadline, the Seller and their counsel shall (i) review each bid on the basis of financial and contractual terms, fewest contingencies, factors relevant to the sale process and length of time to close sale, highest non-refundable deposit, factors affecting the speed and certainty of consummating the Sale and (ii) identify the highest and best offer for the Property ("Highest Qualified Bid"). Within forty-eight hours of the expiration of the Bid Deadline, the Seller will provide notice to all Qualified Bidders, via email or facsimile delivery of the identity of the party submitting the Highest Qualified Bid for the Property as determined by the Seller and the material terms of Highest Qualified Bid.

b. A FINAL BIDDING ROUND ("AUCTION") SHALL BE HELD AT THE PROPERTY ON APRIL 13, 2010 AT 10:00 A.M. ("AUCTION DATE"). AT THE AUCTION, ALL QUALIFIED BIDDERS WILL BE PERMITTED TO INCREASE THEIR BIDS. THE BIDDING SHALL START AT THE PRICE PROPOSED TO BE PAID IN THE HIGHEST QUALIFIED BID, AS DETERMINED IN SELLER'S SOLE DISCRETION, AND CONTINUE IN INCREMENTS OF AT LEAST \$50,000 FOR THE COMMERCIAL PROPERTY SALE AND \$5,000 FOR THE EASEMENT ASSETS SALE.

1 c. The Seller may adopt rules for the bidding process at the Auction that, in its
2 reasonable judgment, will better promote the goals of the bidding process and that are not
3 inconsistent with any of the provisions of the Purchase Agreement and/or the Easement
4 Acquisition Agreement, any Bankruptcy Court order or hereof. All such rules will provide that:
5 (i) the procedures must be fair and open, with no participating Qualified Bidder disadvantaged in
6 any material way as compared to any other Qualified Bidder, (ii) all bids shall be made and
7 received in one room, on an open basis, and all other bidders shall be entitled to be present for all
8 bidding with the understanding that the true identity of each bidder shall be fully disclosed to all
9 other bidders and that all material terms of each Bid will be fully disclosed to all other bidders
10 throughout the entire Auction, and (iii) no Qualified Bidder will be permitted more than thirty
11 minutes to respond to the previous bid at the Auction, and failure to respond within such period
12 shall disqualify such bidder from further eligibility to bid at the Auction (the "Open Auction
13 Procedures").

14 d. Only a Qualified Bidder who has submitted a Qualified Bid is eligible to
15 participate at the Auction.

16 e. At the Auction, the Seller and their counsel shall (i) review each overbid on
17 the basis of financial and contractual terms, fewest contingencies, factors relevant to the sale
18 process and length of time to close sale, highest non-refundable deposit, factors affecting the
19 speed and certainty of consummating the Sale and (ii) identify the highest and best offer(s)
20 received at the Auction for the Property and/or the Easement Assets, either separately or as one
21 transaction, (the "Successful Bid(s)" or "Successful Bidder(s)") and thereafter shall seek
22 Bankruptcy Court approval of the sale the Property to the Successful Bidder(s).

23 3. Closing of the Sale Transactions.

24 a. At the **April 14, 2010 at 10:00 a.m. Bankruptcy Court hearing** on Seller's
25 motion seeking approval for the sale of the Commercial Property and the Easement Assets to the
26 Successful Bidder(s) ("Sale Hearing"), in addition to presenting to the Bankruptcy Court for
27 approval the Successful Bid(s), the Seller may seek Bankruptcy Court approval of at least two-
28 back up bids (the "First Back-Up Bidder(s)" and "Second Back-Up Bidder(s)").

29 b. The Seller intends to sell the Commercial Property and the Easement Assets to
30 the Successful Bidder(s) who will have presented the highest and best Qualified Bid(s). The
31 Seller's presentation to the Bankruptcy Court for approval of a particular Qualified Bid does not
32 constitute the Seller's acceptance of the bid. The Seller has accepted a bid only when the bid has
33 been approved by the Bankruptcy Court at the Sale Hearing.

34 c. The Seller may (i) determine, in their business judgment, which Qualified Bid,
35 if any, is the highest and best offer and (ii) reject at any time before entry of an order of the
36 Bankruptcy Court approving a Qualified Bid, any bid that, in the Seller's sole discretion, is (i)
37 inadequate or insufficient, (ii) not in conformity with the requirements of the Bankruptcy Code,
38 these Bidding Procedures or the terms and conditions of sale or (iii) contrary to the best interests
39 of the Seller's bankruptcy estate and its creditors. At or before the Sale Hearing, the Bankruptcy
40 Court, or subject to the provisions hereof and the provisions of the Commercial Property
41 Purchase Agreement and the Easement Acquisition Agreement, the Seller, may impose such
42 other terms and conditions as they may determine to be in the best interests of the their Estate, its
43 creditors and other parties in interest.

44 d. In the event Successful Bidder(s) fails to close on the Sale of the Commercial
45 Property and/or the Easement Assets within the time parameters approved by the Bankruptcy
46 Court, the Seller shall retain the Successful Bidder's Deposit and will be released from their
47 obligation to sell the Commercial Property and/or the Easement Assets to the Successful Bidder
48

1 and the Seller may then sell the Property to the First Back-Up Bidder(s) approved by the
2 Bankruptcy Court at the Sale Hearing.

3 e. In the event First Back-Up Bidder(s) fails to close on the Sale of the
4 Commercial Property and/or the Easement Assets within the time parameters approved by the
5 Bankruptcy Court, the Seller shall retain the First Back-Up Bidder's Deposit and will be released
6 from their obligation to sell the Commercial Property and/or the Easement Assets to the First
7 Back-Up Bidder and the Seller may then sell the Commercial Property and/or the Easement
8 Assets to the Second Back-Up Bidder approved by the Bankruptcy Court at the Sale Hearing.

9 f. **Easement Assets Sale Only:** In the event that an overbidder (and not the
10 Easement Assets Buyer) is the Successful Bidder for the purchase of the Easement Assets, the
11 Debtors will pay the Easement Assets Buyer a break-up fee representing the Easement Assets
12 Buyer's fees and costs associated with the sale of the Easement Assets in an amount of \$5,000
13 ("Break-Up Fee") out of the proceeds of sale no later than thirty days after the sale of the
14 Easement Assets closes to a Successful Bidder that is not the Easement Assets Buyer.

15 **Any questions regarding the Bidding Procedures should be directed to the Seller's counsel**
16 **Shulman Hodges & Bastian LLP to the attention of Robert E. Huttenhoff, 26632 Towne**
17 **Centre, Suite 300, Foothill Ranch, California 92610; Telephone 949-340-3400; Facsimile**
18 **949-340-3000 or email at rhuttenhoff@shbllp.com.**

19 V. **AUTHORITIES**

20 A. **The Court May Approve a Sale of When There is a Good Faith Purchaser**

21 Pursuant to Bankruptcy Code Section 541, upon the commencement of a case under
22 Chapter 11, an estate is created which includes all legal and equitable interest of the debtor in
23 property at the commencement of the case. The Debtor, after notice and hearing, may sell
24 property of the Estate. Bankruptcy Code Section 363(b). The standards to establish are that
25 there is a sound business purpose for the sale, that the sale is in the best interests of the estate,
26 i.e., the sale is for a fair and reasonable price, that there is accurate and reasonable notice to
27 creditors and that the sale is made in good faith. In re Wilde Horse Enterprises, Inc., 136 B.R.
28 830, 841 (Bankr. C.D. Cal. 1991); In re Lionel Corp., 722 F.2d 1063, 1069 (2d Cir. 1983).
Business justification would include the need to close a sale to one of very few serious bidders
where an asset has been extensively shopped and a delay could jeopardize the transaction. See,
e.g., In re Crowthers McCall Pattner, Inc., 114 B.R. 877, 885 (Bankr. S.D.N.Y. 1990) (extreme
difficulty finding a buyer justified merger when buyer found). The Debtors' proposed sale
herein meets the foregoing criteria.

1 **4. Sound Business Purpose**

2 The Ninth Circuit in In re Walter, 83 B.R. 14 (Bankr. 9th Cir. 1988) has adopted a
3 flexible, case by case test to determine whether the business purpose for a proposed sale justifies
4 disposition of property of the estate under Section 363(b). In Walter, the Ninth Circuit, adopting
5 the reasoning of the Fifth Circuit in In re Continental Air Lines, Inc., 780 F.2d 1223 (5th Cir.
6 1986), and the Second Circuit in In re Lionel Corp., 722 F.2d 1063 (2d Cir. 1983), set forth the
7 following standard to be applied under Bankruptcy Code Section 363(b).

8
9 Whether the proffered business justification is sufficient depends
10 on the case. As the Second Circuit held in Lionel, the bankruptcy
11 judge should consider all salient factors pertaining to the
12 proceeding and, accordingly, act to further the diverse interests of
13 the debtor, creditors and equity holders, alike. He might, for
14 example, look to such relevant factors as the proportionate value of
15 the assets to the estate as a whole, the amount of lapsed time since
16 the filing, the likelihood that a plan of reorganization will be
17 proposed and confirmed in the near future, the effect of the
18 proposed disposition on future plans of reorganization, the
19 proceeds to be obtained from the disposition vis-a-vis any
20 appraisals of the property, which of the alternatives of use, sale or
21 lease the proposal envisions and, most importantly perhaps,
22 whether the asset is increasingly or decreasing in value. This list is
23 not intended to be exclusive, but merely to provide guidance to the
24 bankruptcy judge.

25 Walter, supra, at 19-20 [quoting In re Continental Air Lines, Inc., 780 F.2d 1223, 1226 (5th Cir.
26 1986)].

27 Here, the facts surrounding the sale support the Debtors' business decision that the
28 proposed sales are in the best interest of the Estate and its creditors. The Debtors believe that the
relief requested by this Sale Motion is in the best interest of the Estate as the auction proceedings
instituted under the Bidding Procedures will provide an opportunity for the Debtors to attempt to
create and maximize the value of the Commercial Property and the Easement Assets for the
benefit of the Estate and creditors. The Debtors believe that allowing them to sell the
Commercial Property and the Easement Assets subject to the Bidding Procedures is more
favorable for unsecured creditors than the only alternative now facing the Debtor – a potential
foreclosure sale of the Commercial Property by Wachovia. An auction proceeding offers

unsecured creditors their best hope of preserving value in the Commercial Property and Easement Assets and receiving distribution on account of their claims

Therefore, the Debtors respectfully submits that, if this Court applies the good business reason standard suggested by the Second Circuit in Lionel, the sale should be approved.

5. The Sale Serves The Best Interests Of the Estate and Creditors

The benefits to the Estate, as set forth above, are tremendous. If the sale is not approved, the Debtor will incur costs with trying to find a new buyer, if one could be found. Furthermore, in order to prevent the loss of the Commercial Property and Easement Assets in a foreclosure sale by Wachovia, in order to preserve value and equity in the Commercial Property, and to assist the Debtors in generating funds for their reorganization, the Debtors must conduct an immediate sale of the Commercial Property and Easement Assets. The Commercial Property and Easement Assets are not necessary for the Debtors' reorganization and the sales will assist the Debtors to preserve value from the assets.

Thus, the Debtors have made a business decision that it is in the best interest of the creditors of this Estate that this Sale Motion be approved.

6. Accurate and Reasonable Notice

It is expected that notice of this Sale Motion will satisfy the requirements for accurate and reasonable notice and will be appropriate under the circumstances.

The Debtors shall provide notice of the proposed sale to all creditors. Notice of this Sale Motion will be served on all creditors and will include a summary of the terms and conditions of the proposed sale, the time fixed for filing objections, and a general description of the Commercial Property and the Easement Assets. The Debtors submit that the notice requirements will have been satisfied, thereby allowing creditors and parties in interest an opportunity to object to the sale. Hence, no further notice should be necessary.

7. The Sale is Made In Good Faith

The proposed sales have been brought in good faith and have been negotiated on an "arms length" basis.

1 The court, in Wilde Horse Enterprises, set forth the factors in considering whether a
2 transaction is in good faith. The court stated:

3
4 'Good faith' encompasses fair value, and further speaks to the
5 integrity of the transaction. Typical 'bad faith' or misconduct,
6 would include collusion between the seller and buyer, or any
7 attempt to take unfair advantage of other potential purchasers. . . .
8 And, with respect to making such determinations, the court and
9 creditors must be provided with sufficient information to allow
10 them to take a position on the proposed sale. (citations omitted)

11 Id. at 842.

12 In the present case, the negotiation of the proposed sales was an arms-length transaction.
13 The negotiations with the each of the proposed buyers has resulted in offers to sell that in
14 connection with the Bidding Procedures have substantial benefit. As set forth in the Notice of
15 the Sale Motion, the creditors will have been provided with sufficient notice of the sale.

16 **B. Sale of the Property Free and Clear of Liens and Encumbrances Should be**
17 **Permitted**

18 Bankruptcy Code Section 363(f) allows a Chapter 11 debtor to sell property of the
19 bankruptcy estate “free and clear of any interest in such property of an entity,” if any one of the
20 following five conditions is met:

21 (1) applicable non-bankruptcy law permits a sale of
22 such property free and clear of such interest;

23 (2) such entity consents;

24 (3) such interest is a lien and the price at which such
25 property is to be sold is greater than the aggregate value of all liens
26 on such property;

27 (4) such interest is in bona fide dispute; or

28 (5) such entity could be compelled, in a legal or
equitable proceeding, to accept money satisfaction of such interest.

Bankruptcy Code Section 363(f).

Section 363(f) is written in the disjunctive and thus only one of the enumerated
conditions needs to be satisfied for Court approval to be appropriate.

1. **Section 363(f)(2) - Consent**

The sale of the Commercial Property is proper pursuant to Section 363(f)(2). The Debtors believe that secured creditors Wachovia and the Los Angeles County Tax Collection will have no objection to the sale as the allowed amount of their claims will be paid. The Debtors desire to take advantage of a favorable purchase offers to effectuate the sale of Commercial Property and the Easement Assets.

Courts have approved sales under Bankruptcy Code Section 363(f) even where the sale price did not exceed the value of the liens asserted on the property so long as the sale is for fair market value. In re Terrace Gardens Park Partnership, 96 B.R. 707 (Bankr. W.D. Tex. 1989); In re Beker Indus. Corp., 63 B.R. 474, 477 (Bankr. S.D.N.Y. 1986).

Thus, approval for the sale of the Commercial Property and Easement Assets free and clear of Liens and Encumbrances pursuant to Bankruptcy Code Section 363(f)(2) in the manner provided herein is appropriate.

2. **Section 363(f)(4) – Bona Fide Dispute**

The Debtors believe that the sale of the Commercial Property and Easement Assets is proper under §363(f)(4) because a bona fide dispute exists with regard to the lien of Yvonne Yancy. In light of the dispute regarding the validity, priority and amount of the Yvonne Yancy lien, the Debtors seek to sell the Commercial Property and Easement Assets free and clear of the alleged lien, with such disputed lien to attach to the proceeds of sale pending further agreement with Yvonne Yancy or further Court order. Any claim that Yvonne Yancy may have against the Estate related to the Commercial Property and Easement Assets is the subject of a bona fide dispute and therefore the sale may go forward free and clear of such claims pursuant to Section 363(f)(4). A bona fide dispute has been defined by In re Atwood, 124 B.R. 402 (Bankr. S.D. Ga. 1991) as a “genuine issue of material fact that bears upon the debtor’s liability, or meritorious contention as to the application of law to undisputed facts.” Id. at 407. In In re Milford Group, Inc., 150 B.R. 904 (Bankr. M.D. Pa. 1992), the court stated it need not resolve a bona fide dispute, but must determine whether the issues presented are genuine as to the existence of a bona fide dispute. In doing so, the Milford Court found that the debtor had met its burden to

1 establish cause for the Court to allow for the sale of the property, free and clear of liens. In the
2 instant case, the proposed sale of the Commercial Property and the Easement Assets conforms
3 with the requirements of Section 363(f)(4) as the Debtors have established the existence of a
4 bona fide dispute with Yvonne Yancy.

5 The Debtors do not believe it is prudent or necessary to resolve the Yvonne Yancy
6 dispute by Court order or judgment prior to the sale. The alleged lien of Yvonne Yancy is
7 subject to a bona fide dispute and the Bankruptcy Code provides for a means to sell free and
8 clear of such interest. If the Estate is forced to wait for resolution of the dispute, Debtors may
9 lose the opportunity to capitalize on the current interest from the Buyer and may also lose the
10 Commercial Property through a foreclosure. As such, the sale should proceed now, with any
11 claims or interests of Yvonne Yancy to attach to the proceeds.

12 The policy behind allowing property to be sold free and clear of disputed interests
13 provides that the disputes do not bog down the swift and orderly liquidation of assets for the
14 highest possible value. In this case, more than any other, where the asset is real estate that is
15 subject to fluctuations in the market, interest rates and other factors that impact its value, it is
16 absolutely essential for the Debtors to be able to quickly liquidate the Estate's interest in the
17 Commercial Property for its maximum possible value. By demonstrating the existence of the
18 bona fide dispute, Section 363(f) allows the property to be sold free and clear of any lien that is
19 subject to a dispute so that at a minimum, proceeds can be generated for distribution to parties. If
20 every sale were subject to resolution of disputes that were in existence, expense and time
21 associated with litigation would significantly impact values that could be obtained by
22 bankruptcy estate fiduciaries for the benefit of creditors. Resolution of the issues with regard to
23 the claim of Yvonne Yancy may likely take substantial time, effort and expense by both parties.
24 That process should not hinder, delay or in any way inhibit the Debtors' efforts to maximize the
25 value of the sale of Commercial Property and the Easement Assets.

26 Thus, approval for the sale of the Commercial Property and Easement Assets free and
27 clear of Liens and Encumbrances pursuant to Bankruptcy Code Section 363(f)(4) in the manner
28 provided herein is appropriate.

C. The Sales Do Not Contravene Policy

As early as 1981, a court held that:

As to whether the sale by a trustee of all of the debtor's assets must take place in the context of a confirmed reorganization plan, the case law again is clear that there is nothing objectionable about a sale of all the assets outside of a Chapter 11 plan.

In re WHET, Inc., 12 B.R. 743, 750 (Bankr. D. Mass. 1981).

Not to the contrary, the Fifth Circuit decision in In re Braniff Airways, Inc., 700 F.2d 935 (5th Cir. 1983), disapproved an asset sale because the transaction at issue involved much more than a sale of property in that the documents significantly limited the debtor's reorganization options. Id. At 939.

Under the circumstances of this case and the defaults with Wachovia, the Debtors believe the best option available is the orderly sale of the Commercial Property and the Easement Assets. In essence, based on good business reasons, including the current financial market and the economics of the Debtors' situation, it is in the best interest of the creditors of this Estate that this Sale Motion be approved.

Accordingly, the sale does not conflict with underlying bankruptcy policy. See, In re Brethren Care of South Bend, Inc., 98 B.R. 927, 934 (Bankr. N.D. Ind. 1989) (certainty of future for tenants was good business reason and only feasible plan was liquidation, so 363 sale approved despite pending plan of reorganization).

D. The Court has Authority to Waive the Ten-Day Stay of Sale

Federal Rule of Bankruptcy Procedure 6004(h) provides that "[a]n order authorizing the use, sale or lease of property other than cash collateral is stayed until the expiration of 10 days after entry of the order, unless the Court orders otherwise."

The Debtors desires to close the sale as soon as practicable after entry of an order approving the sale. Accordingly, the Debtors requests that the Court in the discretion provided it under Federal Rule of Bankruptcy Procedure 6004(h), waive the ten-day stay of the order granting this Sale Motion and approving the sale.

E. The Court Has Authority to Approve the Bidding Procedures

Implementation of the Bidding Procedures is an action outside of the ordinary course of the business. Bankruptcy Code Section 363(b)(1) provides that a trustee “after notice and hearing, may use, sell or lease, other than in the ordinary course of business, property of the estate.” Furthermore, under Bankruptcy Code Section 105(a), “[t]he court may issue any order, process, or judgment that is necessary or appropriate to carry out the provisions of this title.” Thus, pursuant to Bankruptcy Code Sections 363(b)(1) and 105(a), this Court may authorize the implementation of Bidding Procedures.

The Ninth Circuit, in a case under the Bankruptcy Act, recognized the power of a bankruptcy court to issue orders determining the terms and conditions for overbids with respect to a sale of estate assets. In re Crown Corporation, 679 F.2d 774 (9th Cir. 1982). The Crown Corporation court entered an order specifying the minimum consideration required for an overbid as well as the particular contractual terms required to be offered by overbidders. Id. at 777. The Crown Corporation decision also approves an order requiring and setting the amount of potential overbidder’s deposits and authorized courts to determine the disposition of such deposits. Id. While the discussion is not extensive, the Crown Corporation decision recognizes the authority of bankruptcy courts to order the implementation of bidding procedures such as those proposed in the present case.

1. The Bidding Procedures are Untainted by Self-Dealing

The Bidding Procedures have been brought in good faith and have been negotiated on an “arms length” basis. Therefore, there is no prospective taint in dealings between the Debtors and any potential bidders.

2. The Bidding Procedures Encourage Bidding

The Bidding Procedures are designed to encourage, not hamper bidding and are reasonable under the circumstances. The Bidding Procedures are intended to provide potential overbidders with adequate information to make an informed decision as to the amount of their bid and the validity of their bid.

1 **3. The Bidding Procedures Serve the Best Interests of the Estate**

2 The proposed Bidding Procedures serve the Estate in several ways. First, the procedures
3 themselves are fair, reasonable and productive; they will permit the Debtors to conduct an
4 orderly auction sale and obtain the best possible price on the best possible terms.

5 The Bidding Procedures will ensure that all bids will be comparable. The Debtors will
6 determine which bid is the highest and best for the Estate. The comparability requirement of the
7 Bidding Procedures will make it possible to accomplish this task.

8 The Bidding Procedures will help the Debtors to obtain the highest and best possible
9 price for the Commercial Property and Easement Assets. The Bidding Procedures institutes
10 minimum overbid increments which the Debtors believe are reasonable. Thus, the Debtors will
11 be able to obtain substantial benefit for this Estate from competing bids.

12 The Bidding Procedure requires that potential bidders demonstrate their capacity to
13 complete the transaction. It would be a serious loss to the Estate if it surrendered the opportunity
14 to sell the Commercial Property and the Easement Assets to one buyer in favor of a competing
15 bidder only to discover the Successful Bidder incapable of consummating the transaction. Thus,
16 requiring bidders to qualify as bidders will protect the Estate from such a loss.

17 The most important benefit of the Bidding Procedures to the Estate is that their
18 implementation will enable the consummation of the proposed sale. The proposed sale will be
19 best way to obtain the maximum and most expedient recovery for creditors of this Estate.
20 Implementation of the Bidding Procedures is an essential component of consummating the sale
21 and maximizing the value of the Commercial Property and the Easement Assets for the Estate
22 and creditors.

23 The Bidding Procedures utilized by the Debtors are fair and provide for a “level playing
24 field” for all prospective bidders with respect to the proposed sale. The Bidding Procedures
25 establish a reasonable but expeditious timeline for allowing the Debtors to give notice of the
26 proposed sale and qualified bidders to conduct reasonable due diligence and submit competing
27 offers, thereby potentially generating additional value for the Commercial Property and
28 Easement Assets. Furthermore, the notice of the Bidding Procedures and Sale Motion is

designed to attract the most interest in the acquisition of the Commercial Property and Easement Assets and is sufficient under the circumstances of this case. Thus, approval of the Bidding Procedures would serve the best interests of the Estate and its creditors.

F. The Proposed Break-Up Fee Related to the Easement Assets Should Be Approved

As a part of the proposed sale with the Easement Assets Buyer for the purchase of the Easement Assets, the Easement Assets Buyer has required that it be paid the \$5,000 Break-Up Fee in the event that an overbid situation occurs and the Easement Assets Buyer is not the Successful Bidder. The Break-Up Fee will be treated as an administrative expense of the Estate.

As stated by the court in In re Financial News Network, 126 B.R. 152 (D.C., S.D.N.Y. 1991) at 154, "A break_up fee is an incentive payment to an unsuccessful bidder who placed the estate property in a sales configuration mode . . . to attract other bidders to the auction." In addition, as stated by the District Court in In re Integrated Resources, Inc., 147 B.R. 650, at 659-661 (D.C., S.D.N.Y. 1992).

Break-up fees are important tools to encourage bidding and to maximize the value of the debtor's assets. The usual rule is that if break-up fees encourage bidding, they are enforceable; if they stifle bidding they are not enforceable. In fact, because the directors of a corporation have a duty to encourage bidding, break-up fees can be necessary to discharge the director's duties to maximize value.

CRTF Corp. v. Federated Department Stores, Inc., 683 F.Supp. at 441.

"Outside bankruptcy, the business judgment rule normally applies to the board's use of a defensive strategy, such as a break-up fee. . . In assessing the incentive effect of the break-up fee, a court should determine whether the dollar amount of the fee is so substantial that it has a chilling affect on other prospective bidders. In making this determination, the court should consider whether the proposed acquiror attracted other bidders or simply received a potential windfall. Break-up fees and other strategies may be legitimately necessary to convince a white knight to enter the bidding by providing some form of compensation for the risks it is undertaking . . .

"A break_up fee should constitute a fair and reasonable percentage of the proposed purchase price, and should be reasonably related to the risk, effort, and expenses of the prospective purchaser. When reasonable in relation to the bidder's efforts and to the magnitude

of the transaction, break up fees are generally permissible In re
999 Fifth Avenue Assocs., 96 B.R. at 29.

In this case, the Debtors readily acknowledge that a significant amount of time, effort and expense will have been incurred by the Easement Assets Buyer in performing its due diligence and negotiating the terms of the sale of the Easement Assets. In a transaction wherein the first overbid increment is anticipated to be at least \$230,000 (Easement Assets Buyer's purchase price of \$220,000 plus initial overbid of \$10,000), it is anticipated that the Break-Up Fee of \$5,000 represents less than three percent of the purchase price. More importantly, the Break-Up fee is only payable in the event that there is a successful overbid. To the extent that competitive bidding increased the final sales price and a sale takes place beyond that amount, the "net" to the creditors of the Estate would rise dollar for dollar with every increment above the Easement Assets Buyer's offer and the Break-Up Fee would remain constant at \$5,000.

The Court should note that the Break-Up Fee is only payable in the event that the sale closes and the Proposed Buyer is not the Successful Bidder, thereby distinguishing these facts from those presented in In re Hup Industries, Inc., 140 B.R. 191 (Bankr. N.D. Ohio 1992), wherein the court did not approve the break-up fee arrangement when the party proposed to receive the break-up fee was to receive the same regardless of the outcome of the proposed sale in the event overbidding took place. Thus, the Debtors requests the Court approve the Break-Up fee proposed to be paid to the Easement Assets Buyer in the event the sale closes and the Easement Assets Buyer is not the purchaser of the Easement Assets.

VI. CONCLUSION

Based upon the foregoing, the Debtors respectfully submits that good cause exists for granting the Sale Motion and the Debtor respectfully requests that the Court enter an order as follows:

1. Approving the Bidding Procedures utilized by the Debtors in connection with the sale of the Commercial Property and the Easement Assets.

2. Approving the Purchase Agreement related to the sale transaction for the Commercial Property in substantially the form as attached hereto as **Exhibit 1** and authorizing

1 the Debtors to sell the Commercial Property to the Successful Bidder pursuant to the terms and
2 conditions set forth in the Commercial Property Purchase Agreement as it may be modified by
3 the Successful Bid.

4 3. Approving the Easement Acquisition Agreement related to the sale transaction for
5 the Easement Assets in substantially the form as attached hereto as **Exhibit 2** and authorizing the
6 Debtors to sell the Easement Assets to the Successful Bidder pursuant to the terms and
7 conditions set forth in the Easement Acquisition Agreement as it may be modified by the
8 Successful Bid.

9 4. Approving the sale of the Commercial Property and Easement Assets to proceed
10 free and clear of all Liens and Encumbrances.

11 5. Authorizing the Debtors to sign any and all documents convenient and necessary
12 in pursuit of the sale as set forth above, including but not limited to any and all conveyances
13 contemplated by the sale and the Commercial Property Purchase Agreement and the Easement
14 Acquisition Agreement.

15 6. A determination by the Court that the Successful Bidder(s) are in good faith with
16 respect to each of the sales pursuant to Bankruptcy Code Section 363(m).

17 7. Waiving the ten-day stay of the order approving the sale of the Commercial
18 Property and Easement Assets under Federal Rules of Bankruptcy Procedure 6004(h).

19 8. And for such other and further relief as the Court deems just and proper under the
20 circumstances of this case.

21
22 Dated: February 24, 2010

Respectfully submitted,

SHULMAN HODGES & BASTIAN LLP

/s/ Leonard M. Shulman

Leonard M. Shulman
Robert E. Huttenhoff
Attorneys for Huntley G. Hoilett and Juliana C. Hoilett, the
Debtors and Debtors in Possession

DECLARATION

DECLARATION OF HUNTLEY G. HOILETT

I, Huntley G. Hoilett, declare and state as follows:

1. My wife and I are the debtors in and debtors in possession in the Chapter 11 case of In re Huntley G. Hoilett and Juliana C. Hoilett, Case No. 2:09-14214-ER. I have personal knowledge of the facts set forth herein and could, if called as a witness, competently testify thereto.

2. I make this Declaration in support of our Motion For Order: (1) Approving Two Sale Transactions For: (A) the Estate's Interest in Certain Real Property of the Estate, and (B) Certain Easement Assets, with the Sales to be Free and Clear of Liens Pursuant to Bankruptcy Code Section 363(b)(1) and (f); (2) Combined with Notice of Bidding Procedures and Request for Approval of the Bidding Procedures Utilized; (3) Approving a Purchase Agreement in Connection with the Sale of the Real Property and Approving Easement Acquisition Agreement in Connection with the Easement Asset Sale; (4) Approving Payment of Real Estate Commission and Other Costs of Sale; and (5) Granting Other Related Relief ("Sale Motion"). Unless otherwise noted, capitalized terms herein have the meaning as set forth in the Sale Motion.

3. My wife and I are the 100% shareholders of HGH Graphic & Display Productions Inc. dba GDP Designs ("GDP"). GDP is a full service design management studio with extensive capabilities that are fully integrated to provide solutions to create promote and support corporate marketing and communication strategies. GDP provides innovative design solutions for corporate logo, brand identity, packaging, brochures, digital media, annual reports, the design and fabrication of point of purchase, retail, tradeshow and exhibit displays. I started GDP after working for a California top 100 company for thirteen years.

4. I grew GDP to a very successful design and display production company employing upwards of eight designers and ten sign and display workers with annual revenue averaging more than \$600,000 annually. Clients of GDP included Lowes Home Improvement, Dunn Edwards Paint, Reebok, Home Depot, PetCo and numerous other manufacturers and local companies.

1 5. Assets of our Estate include the Commercial Property which was valued our
2 Bankruptcy Schedule A at \$2,800,000. However, as this time we believe that the value of the
3 Commercial Property is less and is currently listed for sale at \$1,850,000.

4 6. We have a have a lease with American Tower Corp related to a communications
5 cell tower easement ("Cell Tower") located on the Commercial Property. W receive monthly
6 rent of \$1,648 under the Cell Tower related lease and easement ("Cell Tower Lease"). The
7 proposed separate sale of the Easement Assets herein relates to the Cell Tower easement.

8 7. We purchased the Commercial Property in late 2002 using savings and securing
9 financing through the U.S. Small Business Administration. The Commercial Property was
10 purchased in an "as is" condition and included an approximately 10,000 square foot building
11 with a small office situated on lot of approximately 20,974 square feet. At the time the
12 Commercial Property was purchased it was in a state of disrepair. Over the next three years, with
13 additional financing, the Commercial Property was completely renovated, including new roofing,
14 HVAC, electrical, and plumbing and also included a mezzanine that increased the size of the
15 building to approximately 12,420 square feet.

16 8. As a result of the anticipated disruption to GDP's business activities caused by the
17 remodeling there was a shape drop in revenue from \$475,000 to \$265,000 from 2003 to 2004.
18 This drop was made more severe in 2005 due to the lost of a major client who was responsible
19 for average revenue of more than \$270,000 for more than four years running.

20 9. GDP instituted drastic cost saving measures to stem the losses, including layoffs.
21 My wife and I and the two remaining fulltime employees worked to improve sales and boost
22 revenue, by working longer hours and securing new clients and offering new products and
23 services. We suspended receiving our salaries from mid 2005 to the present. As such, in order
24 to pay expenses and the mortgage on the Commercial Property, we borrowed additional funds by
25 taking second and third mortgages on our personal residence and other lines of credit. As a result
26 of these efforts revenue for 2007 improved.

27 10. Despite the improved revenue in 2007, with the dramatic slowdown in the
28 economy throughout the United States that started in December of 2007 and that continues

1 today, the decision was made in January of 2008 to further downsize GDP's business operations
2 and put Commercial Property up for sale. We intended to sell the Commercial Property and use
3 the proceeds to pay creditors, eliminate our biggest fix expense, namely the mortgage on the
4 Commercial Property and further downsize the GDP's business operations commensurate with
5 the level of opportunities in this economic slowdown. During this period, from January 2008
6 through December 2008, in an effort to stay current with secured creditors and other obligations,
7 we withdrew over \$150,000 from our retirements accounts and aggressively marketed the
8 Commercial Property for sale. However, we defaulted on our loans from Wachovia secured by
9 the Commercial Property in July of 2008.

10 11. Prior to the Petition Date, in an attempt to cure the Wachovia defaults, we
11 successfully negotiated a transaction to sell our interest in the lease related to the Cell Tower and
12 secured a tenant to lease the Commercial Property. However, Wachovia refused to agree to either
13 (1) the sale of the Cell Tower related easement and lease or (2) the lease of the Commercial
14 Property to a new tenant. As result, we sought protection under the Bankruptcy Code in order to
15 preserve our equity in the Commercial Property for the benefit of all of our creditors.

16 12. At the onset of their bankruptcy case, we intended to lease the Commercial
17 Property in order to fund a cure of the defaults for Wachovia and generate proceeds for the
18 benefit of creditors. In fact, the bankruptcy filing was commenced with the purpose of
19 cramming down the prepetition lease offer for the Commercial Building and separate sale of the
20 Cell Tower that had been rejected by Wachovia prior to the Petition Date. Despite Wachovia's
21 rejection, we believed that such disposition of the Commercial Property and Cell Tower would
22 have resulted in a seven month cure of outstanding principal and interest plus five months of
23 principal and interest payment for Wachovia to hold on deposit. At that time Wachovia was
24 owed approximately \$940,000. We believe that with this prior transaction, Wachovia would
25 have been assured payment in full and the general unsecured creditors would have received a
26 significant distribution on their claims. However, Wachovia again rejected the request during
27 the bankruptcy case and the proposed lessee backed out of the deal.

28

13. Since that time, we have continued to market the Commercial Property for both lease and for sale in order to obtain an offer that would result in the greatest distribution to all creditors. Without a doubt, the prior offer rejected from Wachovia is significantly higher than the current offers for either lease or sale. The most recent offers received for the Commercial Property included a lease offer at \$.62 per square foot. Another offer was to purchase the Commercial Property, excluding Cell Tower lease and related easement, for \$1,400,000, which was later withdrawn. A letter of intent at \$1,250,000 was received but the potential buyer did not want to submit to the bidding process.

14. Based on the marketing history, it is our opinion that any future offers to lease or purchase the Commercial Property will not likely improve significantly anytime in the near future. As stated, the Commercial Property is currently listed at \$1,850,000. There are multiple parties interested who have expressed interest, however, these potential buyer continue to present low ball offers. As such, we believe that selling the Commercial Property subject to the Bidding Procedures set forth in the Sale Motion, will result in an auction process that will net the largest potential recovery for the Estate and its creditors in the current real estate market.

15. The following chart summarizes the Liens and Encumbrances against the Commercial Property and their proposed treatment under the proposed sale:

| Secured Creditor | Description of Claim | Amount | Treatment |
|-------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------|------------------------------------------------------------------------------------------------------------------------------------------------------|
| Los Angeles County Tax Collector | Real Property Taxes \$6,300 (2007) \$11,404 (2008) \$12,013.64 (2009) | \$29,717.64 | All outstanding real property taxes will be paid through escrow on the sale transaction. |
| Wachovia | Incurred 12/2002 First Trust Deed Commercial Property Wachovia asserts that as of February 10, 2010, the outstanding balance including principal and interest is \$678,658.75 | \$678,658.75 | This claim shall be paid through escrow on the sale transaction, thus, the Commercial Property shall be sold free and clear of the lien. |

| Secured Creditor | Description of Claim | Amount | Treatment |
|------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Wachovia | Incurred 05/2005 Second Trust Deed Commercial Property Wachovia asserts that as of February 10, 2010, the outstanding balance including principal and interest is \$370,031.47 | \$370,031.47 | This claim shall be paid through escrow on the sale transaction, thus, the Commercial Property shall be sold free and clear of the lien. |
| Yvonne Yancy | Incurred 04/08 Judgment Lien | \$24,000 | The Debtors dispute the validity of the security interest of the claim of Yvonne Yancy and believe that there are causes of action to have the lien set aside under Bankruptcy Code Sections 547 and/or 548 as she is an "insider" as that term is defined in the Bankruptcy Code and the lien was recorded within one year prior to the Petition Date. As it is subject to a bona-fide dispute, the Debtors seek to sell the Commercial Property free and clear of the lien in favor of Yvonne Yancy, with such disputed lien to attach to the proceeds of the sale in the same validity and priority as prior to the sale pending agreement with the creditor or further Court order. |
| | Total | \$1,102,407.86 | |

16. In order to commence the Auction process however, subject to Court approval and the Bidding Procedures set forth below, we will accept the offer received from Ernest Emerson and Mary Emerson or their assignee (collectively "Buyer"). A true and correct copy of the Commercial Property Purchase Agreement and Joint Escrow Instructions is attached hereto as **Exhibit 1**.

17. We intend to sell certain easements related to the Commercial Property pursuant to the terms of that certain "Easement Acquisition Agreement" entered into with the proposed Easement Assets Buyer. A copy of the Easement Acquisition Agreement is attached as

1 **Exhibit 2.** The "Easement Assets Paper" SpectraSite Communications, LLC, a Delaware
2 limited liability company (or "SpectraSite" as the context requires) is affiliated with the
3 American Tower Corp, the lessee under the Cell Tower Lease (such affiliate, "ATC").

4 18. We have determined that we can best ensure the maximization of the value of the
5 Commercial Property and Easement Assets by conducting an auction pursuant to which all
6 interested parties will have the opportunity to receive information and bid on the Commercial
7 Property and Easement Assets instead of selling to the proposed buyers on an exclusive basis.
8 Accordingly, in order to obtain the highest and best offer for the benefit of the creditors of this
9 Estate, we are utilizing the Bidding Procedures set forth in the Sale Motion and request that
10 Court order approving the sale of the Commercial Property and the Easement Assets to the
11 Successful Bidder(s) also provides for approval of the Bidding Procedures.

12 I declare under penalty of perjury under the laws of the United States of America that the
13 foregoing is true and correct.

14 Executed on February 24, 2010, at Carson, California.

15
16 
17 _____
Huntley G. Hoilett

EXHIBIT 1

Commercial Property Purchase Agreement and Joint Escrow Instructions

**LINDA A. WILSON
WINDERMERE REAL ESTATE
GARNER VALLEY
59465 HIGHWAY 74
MOUNTAIN CENTER, CALIF. 92561
(951)659-8013
(951)659-5833 FAX**

FAX

TO: MICHAEL DOUGLAS

DATE 2/19/10

FAX 866 341-8344

PAGES: 12

**HERE YOU GO MICHAEL. I'VE E-MAILED YOU THE
FILE WITH THE DISCLOSURES AND A COPY OF THE
DEPOSIT CHECK.**

THANKYOU,

LINDA

EXHIBIT 1



CALIFORNIA
ASSOCIATION
OF REALTORS®

**COMMERCIAL PROPERTY PURCHASE AGREEMENT
AND JOINT ESCROW INSTRUCTIONS**
(NON-RESIDENTIAL)
(C.A.R. Form CPA, Revised 10/02)

Date February 19, 2010 at Torrance, California

1. OFFER: A. THIS IS AN OFFER FROM Robert Emerson, Mary Emerson ("Buyer").

☒ Individual(s), ☐ A Corporation, ☐ A Partnership, ☐ An LLC, ☐ An LLP, or ☐ Other

B. THE REAL PROPERTY TO BE ACQUIRED is described as 1808 Abalone Avenue, situated in

Torrance, County of Los Angeles, California, ("Property").

C. THE PURCHASE PRICE offered is One Million Two Hundred Thousand Dollars \$ 1,200,000.00

D. CLOSE OF ESCROW shall occur on April 20, 2010 (date) (or ☐ soonest Days After Acceptance).

2. FINANCE TERMS: Obtaining the loans below is a contingency of this Agreement unless: (i) either 2L or 2M is checked below; or (ii) otherwise agreed in writing. Buyer shall act diligently and in good faith to obtain the designated loans. Obtaining deposit, down payment and closing costs is not a contingency. Buyer represents that funds will be good when deposited with Escrow Holder.

A. INITIAL DEPOSIT: Buyer has given a deposit in the amount of \$ 50,000.00

to the agent submitting the offer (or to ☐), by Personal Check

(or ☐), made payable to Windermere Real Estate

which shall be held unencashed until Acceptance and then deposited within 3 business days after

Acceptance or ☐ with Escrow Holder, or ☐ into Broker's trust account.

B. INCREASED DEPOSIT: Buyer shall deposit with Escrow Holder an increased deposit in the amount of \$

within Days After Acceptance, or ☐ \$ 1,080,000.00

C. FIRST LOAN IN THE AMOUNT OF \$ 1,080,000.00

NEW First Deed of Trust in favor of ☒ Lender, ☐ Seller.

OR ☐ ASSUMPTION of (or ☐ "subject to") Existing First Deed of Trust encumbering the Property, securing

a note payable at maximum interest of 6.500 % fixed rate, or % initial adjustable

rate with a maximum interest rate of %, balance due in years, amortized over

 years. (If checked: ☐ and with a margin not to exceed %, tied to the following

index .) Buyer shall pay loan fees/points not to exceed .

Additional terms Subject to SBA loan approval

D. SECOND LOAN IN THE AMOUNT OF \$

NEW Second Deed of Trust in favor of ☐ Lender, ☐ Seller.

OR ☐ ASSUMPTION of (or ☐ "subject to") Existing Second Deed of Trust encumbering the Property,

securing a note payable at maximum interest of % fixed rate, or %

initial adjustable rate with a maximum interest rate of %, balance due in years,

amortized over years. (If checked: ☐ and with a margin not to exceed %, tied to

the following index .) Buyer shall pay loan fees/points not to exceed .

Additional terms

E. ADDITIONAL FINANCING TERMS: \$

F. BALANCE OF PURCHASE PRICE (not including costs of obtaining loans and other closing costs) in the amount of \$ 70,000.00

to be deposited with Escrow Holder within sufficient time to close escrow.

G. PURCHASE PRICE (TOTAL): \$ 1,200,000.00

H. LOAN APPLICATIONS: Within 7 (or ☐ 14) Days After Acceptance, Buyer shall provide Seller a letter from lender or

mortgage loan broker stating that, based on a review of Buyer's written application and credit report, Buyer is prequalified or

preapproved for any NEW loan specified above.

I. VERIFICATION OF DOWN PAYMENT AND CLOSING COSTS: Buyer (or Buyer's lender or loan broker pursuant to 2H) shall,

within 7 (or ☐) Days After Acceptance, provide Seller written verification of Buyer's down payment and closing costs.

J. LOAN CONTINGENCY REMOVAL: (i) Within 17 (or ☐) Days After Acceptance Buyer shall, as specified in Paragraph 17,

remove the loan contingency or cancel this Agreement; OR (ii) (if checked) ☒ loan contingency shall remain in effect until the

designated loans are funded.

K. APPRAISAL CONTINGENCY AND REMOVAL: This Agreement is (OR, if checked, ☐ is NOT) contingent upon the Property

appraising at no less than the specified purchase price. If there is a loan contingency, at the time the loan contingency is removed

(or, if checked, ☐ within 17 (or) Days After Acceptance), Buyer shall, as specified in paragraph 17, remove the

appraisal contingency or cancel this Agreement. If there is no loan contingency, Buyer shall, as specified in paragraph 17, remove

the appraisal contingency within 17 (or) Days After Acceptance.

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CPA REVISED 10/02 (PAGE 1 OF 10)

Buyer's Initials RE ME

Seller's Initials

Reviewed by Date



COMMERCIAL PROPERTY PURCHASE AGREEMENT (CPA PAGE 1 OF 10)

Agent: Linda Wilson Phone: (851) 659-5013 Fax: (851) 659-5833 Prepared using WINForms® software
Broker: Windermere Real Estate 59-485 Highway 74, Mountain View, CA 94035

EXHIBIT 1

1908 Abalone Avenue
Property Address: Torrance, CA 90501

Date: February 19, 2010

- L. ☐ NO LOAN CONTINGENCY (if checked): Obtaining any loan, in paragraphs 2C, 2D, 2E or elsewhere in this Agreement, is NOT a contingency of this Agreement. If Buyer does not obtain the loan and as a result Buyer does not purchase the Property, Seller may be entitled to Buyer's deposit or other legal remedies.
- M. ☐ ALL CASH OFFER (if checked): No loan is needed to purchase the Property. Buyer shall, within 7 (or ☐ _____) Days After Acceptance, provide Seller written verification of sufficient funds to close this transaction.
- N. SELLER FINANCING: For any Seller financing designated above, Buyer is to execute a note secured by a deed of trust in favor of Seller, on the terms and conditions set forth in the attached addendum (C.A.R. Form SFA).
- O. ASSUMED OR "SUBJECT TO" FINANCING: Seller represents that Seller is not delinquent on any payments due on any loans. Seller shall, within the time specified in paragraph 17, provide Copies of all applicable notes and deeds of trust, loan balances and current interest rates to Buyer. Buyer shall then, as specified in paragraph 17, remove this contingency or cancel this Agreement. Differences between estimated and actual loan balances shall be adjusted at Close Of Escrow by cash down payment. Impound accounts, if any, shall be assigned and charged to Buyer and credited to Seller. Seller is advised that Buyer's assumption of an existing loan may not release Seller from liability on that loan. If the Property is acquired subject to an existing loan, Buyer and Seller are advised to consult with legal counsel regarding the ability of an existing lender to call the loan due, and the consequences thereof.
3. CLOSING AND OCCUPANCY:
- A. Seller-Occupied or Vacant Units: Occupancy shall be delivered to Buyer at ☐ AM ☐ PM, ☐ on the date of Close Of Escrow; ☐ on _____; or ☐ no later than _____ Days After Close Of Escrow. (C.A.R. Form PAA, paragraph 2.) If transfer of title and occupancy do not occur at the same time, Buyer and Seller are advised to: (i) enter into a written occupancy agreement; and (ii) consult with their insurance and legal advisors.
- B. Tenant-Occupied Units: Possession and occupancy, subject to the rights of tenants under existing leases, shall be delivered to Buyer on Close Of Escrow.
- C. At Close Of Escrow, Seller assigns to Buyer any assignable warranty rights for items included in the sale and shall provide any available Copies of such warranties. Brokers cannot and will not determine the assignability of any warranties.
- D. At Close Of Escrow, unless otherwise agreed in writing, Seller shall provide keys and/or means to operate all locks, mailboxes, security systems, alarms and garage door openers. If the Property is a unit in a condominium or located in a common-interest subdivision, Buyer may be required to pay a deposit to the Owners' Association ("OA") to obtain keys to accessible OA facilities.
4. SECURITY DEPOSITS: Security deposits, if any, to the extent they have not been applied by Seller in accordance with any rental agreement and current Law, shall be transferred to Buyer on Close Of Escrow. Seller shall notify each tenant, in compliance with the Civil Code.
5. ALLOCATION OF COSTS (if checked): Unless otherwise specified here, this paragraph only determines who is to pay for the report, inspection, test or service mentioned. If not specified here or elsewhere in this Agreement, the determination of who is to pay for any work recommended or identified by any such report, inspection, test or service is by the method specified in paragraph 17.
- A. INSPECTIONS AND REPORTS:
- (1) ☐ Buyer ☒ Seller shall pay for sewer connection, if required by Law prior to Close Of Escrow _____.
- (2) ☐ Buyer ☒ Seller shall pay to have septic or private sewage disposal system inspected _____.
- (3) ☐ Buyer ☒ Seller shall pay to have domestic wells tested for water potability and productivity _____.
- (4) ☐ Buyer ☒ Seller shall pay for a natural hazard zone disclosure report prepared by _____.
- (5) ☐ Buyer ☐ Seller shall pay for the following inspection or report _____.
- (6) ☐ Buyer ☐ Seller shall pay for the following inspection or report _____.
- B. GOVERNMENT REQUIREMENTS AND RETROFIT:
- (1) ☐ Buyer ☒ Seller shall pay for smoke detector installation and/or water heater bracing, if required by Law. Prior to Close Of Escrow, Seller shall provide Buyer a written statement of compliance in accordance with state and local Law, unless exempt.
- (2) ☐ Buyer ☒ Seller shall pay the cost of compliance with any other minimum mandatory government retrofit standards, inspections and reports if required as a condition of closing escrow under any Law.
- (3) ☐ Buyer ☒ Seller shall pay for installation of approved fire extinguisher(s), sprinkler(s), and hose(s), if required by Law, which shall be installed prior to Close Of Escrow. Prior to Close Of Escrow Seller shall provide Buyer a written statement of compliance, if required by Law.
- C. ESCROW AND TITLE:
- (1) ☒ Buyer ☒ Seller shall pay escrow fees Each to pay their own fees
Escrow Holder shall be Sellers choice
- (2) ☐ Buyer ☒ Seller shall pay for owner's title insurance policy specified in paragraph 16
Owner's title policy to be issued by Sellers choice
(Buyer shall pay for any title insurance policy insuring Buyer's lender, unless otherwise agreed in writing.)
- D. OTHER COSTS:
- (1) ☐ Buyer ☒ Seller shall pay County transfer tax or transfer fee _____.
- (2) ☐ Buyer ☒ Seller shall pay City transfer tax or transfer fee _____.
- (3) ☐ Buyer ☒ Seller shall pay OA transfer fees _____.
- (4) ☐ Buyer ☒ Seller shall pay OA document preparation fees _____.
- (5) ☐ Buyer ☐ Seller shall pay for _____.
- (6) ☐ Buyer ☐ Seller shall pay for _____.

Buyer's Initials (ERE) (me)
Seller's Initials () ()

Reviewed by _____ Date _____



Ernest and Mar

1808 Abalone Avenue

Property Address: Torrance, CA 90501

Date: February 19, 2010

6. SELLER DISCLOSURES:

A. NATURAL AND ENVIRONMENTAL DISCLOSURES: Seller shall, within the time specified in paragraph 17, if required by Law: (i) deliver to Buyer earthquake guides (and questionnaire) and environmental hazards booklet; (ii) even if exempt from the obligation to provide an NHD, disclose if the Property is located in a Special Flood Hazard Area; Potential Flooding (Inundation) Area; Very High Fire Hazard Zone; State Fire Responsibility Area; Earthquake Fault Zone; Seismic Hazard Zone; and (iii) disclose any other zone as required by Law and provide any other information required for those zones.

B. ADDITIONAL DISCLOSURES: Within the time specified in paragraph 17, Seller shall provide to Buyer, in writing, the following disclosures, documentation and information:

(1) RENTAL SERVICE AGREEMENTS: (i) All current leases, rental agreements, service contracts, and other agreements pertaining to the operation of the Property; and (ii) a rental statement including names of tenants, rental rates, period of rental, date of last rent increase, security deposits, rental concessions, rebates, or other benefits, if any, and a list of delinquent rents and their duration. Seller represents that no tenant is entitled to any concession, rebate, or other benefit, except as set forth in these documents.

(2) INCOME AND EXPENSE STATEMENTS: The books and records, including a statement of income and expense for the 12 months preceding Acceptance. Seller represents that the books and records are those maintained in the ordinary and normal course of business, and used by Seller in the computation of federal and state income tax returns.

(3) ☐ TENANT ESTOPPEL CERTIFICATES: (If checked) Tenant estoppel certificates (C.A.R. Form TEC) completed by Seller or Seller's agent, and signed by tenants, acknowledging: (i) that tenants' rental or lease agreements are unmodified and in full force and effect (or if modified, stating all such modifications); (ii) that no lessor defaults exist; and (iii) stating the amount of any prepaid rent or security deposit.

(4) SURVEYS, PLANS AND ENGINEERING DOCUMENTS: Copies of surveys, plans, specifications and engineering documents, if any, in Seller's possession or control.

(5) PERMITS: If in Seller's possession, Copies of all permits and approvals concerning the Property, obtained from any governmental entity, including, but not limited to, certificates of occupancy, conditional use permits, development plans, and licenses and permits pertaining to the operation of the Property.

(6) STRUCTURAL MODIFICATIONS: Any known structural additions or alterations to, or the installation, alteration, repair or replacement of, significant components of the structure(s) upon the Property.

(7) GOVERNMENTAL COMPLIANCE: Any improvements, additions, alterations or repairs made by Seller, or known to Seller to have been made, without required governmental permits, final inspections, and approvals.

(8) VIOLATION NOTICES: Any notice of violations of any Law filed or issued against the Property and actually known to Seller.

(9) MISCELLANEOUS ITEMS: Any of the following, if actually known to Seller: (i) any current pending lawsuit(s), investigation(s), inquiry(ies), action(s), or other proceeding(s) affecting the Property, or the right to use and occupy it; (ii) any unsatisfied mechanic's or materialman's lien(s) affecting the Property; and (iii) that any tenant of the Property is the subject of a bankruptcy.

7. ☒ ENVIRONMENTAL SURVEY (If checked): Within 14 Days After Acceptance, Buyer shall be provided a phase one environmental survey report paid for and obtained by ☐ Buyer ☐ Seller. Buyer shall then, as specified in paragraph 17, remove this contingency or cancel this Agreement.

8. CONDOMINIUM/PLANNED UNIT DEVELOPMENT DISCLOSURES:

A. SELLER HAS: ☐ 7 (or ☐) Days After Acceptance to disclose to Buyer whether the Property is a condominium, or located in a planned unit development or other common interest subdivision.

B. If Property is a condominium, or located in a planned unit development or other common interest subdivision, Seller has 7 (or ☐) Days After Acceptance to request from the OA (C.A.R. Form HOA): (i) Copies of any documents required by Law; (ii) disclosure of any pending or anticipated claim or litigation by or against the OA; (iii) a statement containing the location and number of designated parking and storage spaces; (iv) Copies of the most recent 12 months of OA minutes for regular and special meetings; and (v) the names and contact information of all OA's governing the Property. (Collectively, "CI Disclosures.") Seller shall itemize and deliver to Buyer all CI Disclosures received from the OA and any CI Disclosures in Seller's possession. Buyer's approval of CI Disclosures is a contingency of this Agreement as specified in paragraph 17.

9. SUBSEQUENT DISCLOSURES: In the event Seller, prior to Close Of Escrow, becomes aware of adverse conditions materially affecting the Property, or any material inaccuracy in disclosures, information or representations previously provided to Buyer of which Buyer is otherwise unaware, Seller shall promptly provide a subsequent or amended disclosure or notice in writing, covering those items. However, a subsequent or amended disclosure shall not be required for conditions and material inaccuracies disclosed in reports ordered and paid for by Buyer.

10. CHANGES DURING ESCROW:

A. Prior to Close Of Escrow, Seller may only engage in the following acts, ("Proposed Changes"), subject to Buyer's rights in paragraph 17: (i) rent or lease any vacant unit or other part of the premises; (ii) alter, modify, or extend any existing rental or lease agreement; (iii) enter into, alter, modify or extend any service contract(s); or (iv) change the status of the condition of the Property.

B. At least 7 (or ☐) Days prior to any Proposed Changes, Seller shall give written notice to Buyer of any Proposed Changes.

Buyer's Initials (ERE) (ME)

Seller's Initials () ()

Reviewed by _____ Date _____



1808 Abalone Avenue

Property Address: Torrance, CA 90501

Date: February 19, 2010

11. CONDITIONS AFFECTING PROPERTY:

- A. Unless otherwise agreed: (i) the Property is sold (a) in its PRESENT physical condition as of the date of Acceptance and (b) subject to Buyer's investigation rights; (ii) the Property, including pool, spa, landscaping and grounds, is to be maintained in substantially the same condition as on the date of Acceptance; and (iii) all debris and personal property not included in the sale shall be removed by Close Of Escrow.
- B. SELLER SHALL, within the time specified in paragraph 17, DISCLOSE KNOWN MATERIAL FACTS AND DEFECTS affecting the Property, including known insurance claims within the past five years, AND MAKE OTHER DISCLOSURES REQUIRED BY LAW.
- C. NOTE TO BUYER: You are strongly advised to conduct investigations of the entire Property in order to determine its present condition since Seller may not be aware of all defects affecting the Property or other factors that you consider important. Property improvements may not be built according to code, in compliance with current Law, or have had permits issued.
- D. NOTE TO SELLER: Buyer has the right to inspect the Property and, as specified in paragraph 17, based upon information discovered in those inspections: (i) cancel this Agreement; or (ii) request that you make Repairs or take other action.

12. ITEMS INCLUDED AND EXCLUDED:

- A. NOTE TO BUYER AND SELLER: Items listed as included or excluded in the MLS, flyers or marketing materials are not included in the purchase price or excluded from the sale unless specified in 12B or C.
- B. ITEMS INCLUDED IN SALE:
- (1) All EXISTING fixtures and fittings that are attached to the Property.
 - (2) Existing electrical, mechanical, lighting, plumbing and heating fixtures, ceiling fans, fireplace inserts, gas logs and grates, solar systems, built-in appliances, window and door screens, awnings, shutters, window coverings, attached floor coverings, television antennas, satellite dishes, private integrated telephone systems, air coolers/conditioners, pool/spa equipment, garage door openers/remote controls, mailbox, in-ground landscaping, trees/shrubs, water softeners, water purifiers, security systems/alarms.
 - (3) A complete inventory of all personal property of Seller currently used in the operation of the Property and included in the purchase price shall be delivered to Buyer within the time specified in paragraph 17.
 - (4) Seller represents that all items included in the purchase price are, unless otherwise specified, owned by Seller. Within the time specified in paragraph 17, Seller shall give Buyer a list of fixtures not owned by Seller.
 - (5) Seller shall deliver title to the personal property by Bill of Sale, free of all liens and encumbrances, and without warranty of condition.
 - (6) As additional security for any note in favor of Seller for any part of the purchase price, Buyer shall execute a UCC-1 Financing Statement to be filed with the Secretary of State, covering the personal property included in the purchase, replacement thereof, and insurance proceeds.
- C. ITEMS EXCLUDED FROM SALE:

13. BUYER'S INVESTIGATION OF PROPERTY AND MATTERS AFFECTING PROPERTY:

- A. Buyer's acceptance of the condition of, and any other matter affecting the Property is a contingency of this Agreement, as specified in this paragraph and paragraph 17. Within the time specified in paragraph 17, Buyer shall have the right, at Buyer's expense unless otherwise agreed, to conduct inspections, investigations, tests, surveys and other studies ("Buyer Investigations"), including, but not limited to, the right to: (i) inspect for lead-based paint and other lead-based paint hazards; (ii) inspect for wood destroying pests and organisms; (iii) confirm the insurability of Buyer and the Property; and (iv) satisfy Buyer as to any matter of concern to Buyer. Without Seller's prior written consent, Buyer shall neither make nor cause to be made: (i) invasive or destructive Buyer Investigations; or (ii) inspections by any governmental building or zoning inspector, or government employee, unless required by Law.
- B. Buyer shall complete Buyer Investigations and, as specified in paragraph 17, remove the contingency or cancel this Agreement. Buyer shall give Seller, at no cost, complete Copies of all Buyer Investigation reports obtained by Buyer. Seller shall make Property available for all Buyer Investigations. Seller shall have water, gas, electricity, and all operable pilot lights on for Buyer's investigations and through the date possession is made available to Buyer.

14. REPAIRS: Repairs shall be completed prior to final verification of condition unless otherwise agreed in writing. Repairs to be performed at Seller's expense may be performed by Seller or through others, provided that the work complies with applicable Law, including governmental permit, inspection and approval requirements. Repairs shall be performed in a good, skillful manner with materials of quality and appearance comparable to existing materials. It is understood that exact restoration of appearance or cosmetic items following all Repairs may not be possible. Seller shall: (i) obtain receipts for Repairs performed by others; (ii) prepare a written statement indicating the Repairs performed by Seller and the date of such Repairs; and (iii) provide Copies of receipts and statements to Buyer prior to final verification of condition.

15. BUYER INDEMNITY AND SELLER PROTECTION FOR ENTRY UPON PROPERTY: Buyer shall: (i) keep the Property free and clear of liens; (ii) Repair all damage arising from Buyer Investigations; and (iii) indemnify and hold Seller harmless from all resulting liability, claims, demands, damages and costs. Buyer shall carry, or Buyer shall require anyone acting on Buyer's behalf to carry policies of liability, workers' compensation and other applicable insurance, defending and protecting Seller from liability for any injuries to persons or property occurring during any Buyer Investigations or work done on the Property at Buyer's direction prior to Close Of Escrow. Seller is advised that certain protections may be afforded Seller by recording a "Notice of Non-Responsibility" (C.A.R. Form NNR) for Buyer Investigations and work done on the Property at Buyer's direction. Buyer's obligations under this paragraph shall survive the termination of this Agreement.

Buyer's Initials (ERE) (ME)
Seller's Initials () ()

Reviewed by _____ Date _____



1808 Abalone Avenue

Property Address: Torrance, CA 90501

Date: February 19, 2010

16. TITLE AND VESTING:

- A. Within the time specified in paragraph 17, Buyer shall be provided a current preliminary (title) report, which is only an offer by the title insurer to issue a policy of title insurance and may not contain every item affecting title. Buyer's review of the preliminary report and any other matters which may affect title are a contingency of this Agreement as specified in paragraph 17.
- B. Title is taken in its present condition subject to all encumbrances, easements, covenants, conditions, restrictions, rights and other matters, whether of record or not, as of the date of Acceptance except: (i) monetary liens of record unless Buyer is assuming those obligations or taking the property subject to those obligations; and (ii) those matters which Seller has agreed to remove in writing.
- C. Within the time specified in paragraph 17, Seller has a duty to disclose to Buyer all matters known to Seller affecting title, whether of record or not.
- D. At Close Of Escrow, Buyer shall receive a grant deed conveying title (or, for stock cooperative or long-term lease, an assignment of stock certificate or of Seller's leasehold interest), including oil, mineral and water rights if currently owned by Seller. Title shall vest as designated in Buyer's supplemental escrow instructions. THE MANNER OF TAKING TITLE MAY HAVE SIGNIFICANT LEGAL AND TAX CONSEQUENCES. CONSULT AN APPROPRIATE PROFESSIONAL.
- E. Buyer shall receive a standard coverage owner's CLTA policy of title insurance. An ALTA policy or the addition of endorsements may provide greater coverage for Buyer. A title company, at Buyer's request, can provide information about the availability, desirability, coverage, and cost of various title insurance coverages and endorsements. If Buyer desires title coverage other than that required by this paragraph, Buyer shall instruct Escrow Holder in writing and pay any increase in cost.

17. TIME PERIODS; REMOVAL OF CONTINGENCIES; CANCELLATION RIGHTS: The following time periods may only be extended, altered, modified or changed by mutual written agreement. Any removal of contingencies or cancellation under this paragraph must be in writing (C.A.R. Form CR).

- A. SELLER HAS: 7 (or ☐ 14) Days After Acceptance to deliver to Buyer all reports, disclosures and information for which Seller is responsible under paragraphs 5, 6A and B, 8A, 11B, 12B (3) and (4) and 16.
- B. BUYER HAS: 17 (or ☐ 21) Days After Acceptance, unless otherwise agreed in writing, to:
- (1) Complete all Buyer Investigations; approve all disclosures, reports and other applicable information, which Buyer receives from Seller; and approve all matters affecting the Property (including lead-based paint and lead-based paint hazards as well as other information specified in paragraph 6 and insurability of Buyer and the Property).
 - (2) Within the time specified in 17B(1), Buyer may request that Seller make repairs or take any other action regarding the Property (C.A.R. Form RR). Seller has no obligation to agree to or respond to Buyer's requests.
 - (3) By the end of the time specified in 17B(1) (or 2J for loan contingency or 2K for appraisal contingency), Buyer shall remove, in writing, the applicable contingency (C.A.R. Form CR) or cancel this Agreement. However, if the following inspections, reports or disclosures are not made within the time specified in 17A, then Buyer has 5 (or ☐) Days after receipt of any such items, or the time specified in 17B(1), whichever is later, to remove the applicable contingency or cancel this Agreement in writing: (i) government-mandated inspections or reports required as a condition of closing; (ii) Common Interest Disclosures pursuant to paragraph 8B; (iii) a subsequent or amended disclosure pursuant to paragraph 9; (iv) Proposed Changes pursuant to paragraph 10B; and (v) environmental survey pursuant to paragraph 7.
- C. CONTINUATION OF CONTINGENCY OR CONTRACTUAL OBLIGATION; SELLER RIGHT TO CANCEL:
- (1) Seller right to Cancel: Buyer Contingencies: Seller, after first giving Buyer a Notice to Buyer to Perform (as specified below), may cancel this Agreement in writing and authorize return of Buyer's deposit if, by the time specified in the Agreement, Buyer does not remove in writing the applicable contingency or cancel this Agreement. Once all contingencies have been removed, failure of either Buyer or Seller to close escrow in time may be a breach of this Agreement.
 - (2) Continuation of Contingency: Even after the expiration of the time specified in 17B, Buyer retains the right to make requests to Seller, remove in writing the applicable contingency or cancel this Agreement until Seller cancels pursuant to 17C(1). Once Seller receives Buyer's written removal of all contingencies, Seller may not cancel this Agreement pursuant to 17C(1).
 - (3) Seller right to Cancel: Buyer Contract Obligations: Seller, after first giving Buyer a Notice to Buyer to Perform (as specified below), may cancel this Agreement in writing and authorize return of Buyer's deposit for any of the following reasons: (i) if Buyer fails to deposit funds as required by 2A or 2B; (ii) if the funds deposited pursuant to 2A or 2B are not good when deposited; (iii) if Buyer fails to provide a letter as required by 2H; (iv) if Buyer fails to provide verification as required by 2I or 2M; or (v) if Seller reasonably disapproves of the verification provided by 2I or 2M. Seller is not required to give Buyer a Notice to Perform regarding Close Of Escrow.
 - (4) Notice To Buyer To Perform: The Notice to Buyer to Perform (C.A.R. Form NBP) shall (i) be in writing; (ii) be signed by Seller and (iii) give Buyer at least 24 (or ☐) hours (or until the time specified in the applicable paragraph, whichever occurs last) to take the applicable action. A Notice to Buyer to Perform may not be given any earlier than 2 Days Prior to the expiration of the applicable time for Buyer to remove a contingency or cancel the Agreement or meet an 17C(3) obligation.
- D. EFFECT OF BUYER'S REMOVAL OF CONTINGENCIES: If Buyer removes, in writing, any contingency or cancellation rights, unless otherwise specified in a separate written agreement between Buyer and Seller, Buyer shall conclusively be deemed to have: (i) completed all Buyer Investigations, and review of reports and other applicable information and disclosures pertaining to that contingency or cancellation right; (ii) elected to proceed with the transaction; and (iii) assumed all liability, responsibility, and expense for Repairs or corrections pertaining to that contingency or cancellation right, or for inability to obtain financing.

Buyer's Initials ERE ME
Seller's Initials () ()
Reviewed by _____ Date _____



Equal Housing Opportunity

1808 Abalone Avenue
Property Address: Torrance, CA 90501

Date: February 19, 2010

- E. EFFECT OF CANCELLATION ON DEPOSITS:** If Buyer or Seller gives written notice of cancellation pursuant to rights duly exercised under the terms of this Agreement, Buyer and Seller agree to Sign mutual instructions to cancel the sale and escrow and release deposits, less fees and costs, to the party entitled to the funds. Fees and costs may be payable to service providers and vendors for services and products provided during escrow. Release of funds will require mutual Signed release instructions from Buyer and Seller, judicial decision or arbitration award.
- 18. FINAL VERIFICATION OF CONDITION:** Buyer shall have the right to make a final inspection of the Property within 5 (or _____) Days Prior to Close Of Escrow, NOT AS A CONTINGENCY OF THE SALE, but solely to confirm: (i) the Property is maintained pursuant to paragraph 11A; (ii) Repairs have been completed as agreed; and (iii) Seller has complied with Seller's other obligations under this Agreement.
- 19. ENVIRONMENTAL HAZARD CONSULTATION:** Buyer and Seller acknowledge: (i) Federal, state, and local legislation impose liability upon existing and former owners and users of real property, in applicable situations, for certain legislatively defined, environmentally hazardous substances; (ii) Broker(s) has/have made no representation concerning the applicability of any such Law to this transaction or to Buyer or to Seller, except as otherwise indicated in this Agreement; (iii) Broker(s) has/have made no representation concerning the existence, testing, discovery, location and evaluation of, and risks posed by, environmentally hazardous substances, if any, located on or potentially affecting the Property; and (iv) Buyer and Seller are each advised to consult with technical and legal experts concerning the existence, testing, discovery, location and evaluation of, and risks posed by, environmentally hazardous substances, if any, located on or potentially affecting the Property.
- 20. AMERICANS WITH DISABILITIES ACT:** The Americans With Disabilities Act ("ADA") prohibits discrimination against individuals with disabilities. The ADA affects almost all commercial facilities and public accommodations. The ADA can require, among other things, that buildings be made readily accessible to the disabled. Different requirements apply to new construction, alterations to existing buildings, and removal of barriers in existing buildings. Compliance with the ADA may require significant costs. Monetary and injunctive remedies may be incurred if the Property is not in compliance. A real estate broker does not have the technical expertise to determine whether a building is in compliance with ADA requirements, or to advise a principal on those requirements. Buyer and Seller are advised to contact an attorney, contractor, architect, engineer or other qualified professional of Buyer's or Seller's own choosing to determine to what degree, if any, the ADA impacts that principal or this transaction.
- 21. LIQUIDATED DAMAGES:** If Buyer fails to complete this purchase because of Buyer's default, Seller shall retain, as liquidated damages, the deposit actually paid. Buyer and Seller agree that this amount is a reasonable sum given that it is impractical or extremely difficult to establish the amount of damages that would actually be suffered by Seller in the event Buyer were to breach this Agreement. Release of funds will require mutual, Signed release instructions from both Buyer and Seller, judicial decision or arbitration award.

Buyer's Initials ERE / ME Seller's Initials 1

22. DISPUTE RESOLUTION:

- A. MEDIATION:** Buyer and Seller agree to mediate any dispute or claim arising between them out of this Agreement, or any resulting transaction, before resorting to arbitration or court action. Paragraphs 22B(2) and (3) below apply to mediation whether or not the Arbitration provision is initiated. Mediation fees, if any, shall be divided equally among the parties involved. If, for any dispute or claim to which this paragraph applies, any party commences an action without first attempting to resolve the matter through mediation, or refuses to mediate after a request has been made, then that party shall not be entitled to recover attorney fees, even if they would otherwise be available to that party in any such action. THIS MEDIATION PROVISION APPLIES WHETHER OR NOT THE ARBITRATION PROVISION IS INITIALED.
- B. ARBITRATION OF DISPUTES:** (1) Buyer and Seller agree that any dispute or claim in Law or equity arising between them out of this Agreement or any resulting transaction, which is not settled through mediation, shall be decided by neutral, binding arbitration, including and subject to paragraphs 22B(2) and (3) below. The arbitrator shall be a retired judge or justice, or an attorney with at least 5 years of real estate transactional Law experience, unless the parties mutually agree to a different arbitrator, who shall render an award in accordance with substantive California Law. The parties shall have the right to discovery in accordance with Code of Civil Procedure §1283.05. In all other respects, the arbitration shall be conducted in accordance with Title 9 of Part III of the California Code of Civil Procedure. Judgment upon the award of the arbitrator(s) may be entered into any court having jurisdiction. Interpretation of this agreement to arbitrate shall be governed by the Federal Arbitration Act.
- (2) **EXCLUSIONS FROM MEDIATION AND ARBITRATION:** The following matters are excluded from mediation and arbitration: (i) a judicial or non-judicial foreclosure or other action or proceeding to enforce a deed of trust, mortgage, or installment land sale contract as defined in Civil Code §2985; (ii) an unlawful detainer action; (iii) the filing or enforcement of a mechanic's lien; and (iv) any matter that is within the jurisdiction of a probate, small claims, or bankruptcy court. The filing of a court action to enable the recording of a notice of pending action, for order of attachment, receivership, injunction, or other provisional remedies, shall not constitute a waiver of the mediation and arbitration provisions.
- (3) **BROKERS:** Buyer and Seller agree to mediate and arbitrate disputes or claims involving either or both Brokers, consistent with 22A and B, provided either or both Brokers shall have agreed to such mediation or arbitration prior to, or within a reasonable time after, the dispute or claim is presented to Brokers. Any election by either or both Brokers to participate in mediation or arbitration shall not result in Brokers being deemed parties to the Agreement.

Buyer's Initials ERE / ME
Seller's Initials () ()
Reviewed by _____ Date _____



1908 Abalone Avenue
Property Address: Torrance, CA 90501

Date: February 19, 2010

"NOTICE: BY INITIALING IN THE SPACE BELOW YOU ARE AGREEING TO HAVE ANY DISPUTE ARISING OUT OF THE MATTERS INCLUDED IN THE 'ARBITRATION OF DISPUTES' PROVISION DECIDED BY NEUTRAL ARBITRATION AS PROVIDED BY CALIFORNIA LAW AND YOU ARE GIVING UP ANY RIGHTS YOU MIGHT POSSESS TO HAVE THE DISPUTE LITIGATED IN A COURT OR JURY TRIAL. BY INITIALING IN THE SPACE BELOW YOU ARE GIVING UP YOUR JUDICIAL RIGHTS TO DISCOVERY AND APPEAL, UNLESS THOSE RIGHTS ARE SPECIFICALLY INCLUDED IN THE 'ARBITRATION OF DISPUTES' PROVISION. IF YOU REFUSE TO SUBMIT TO ARBITRATION AFTER AGREEING TO THIS PROVISION, YOU MAY BE COMPELLED TO ARBITRATE UNDER THE AUTHORITY OF THE CALIFORNIA CODE OF CIVIL PROCEDURE. YOUR AGREEMENT TO THIS ARBITRATION PROVISION IS VOLUNTARY."

"WE HAVE READ AND UNDERSTAND THE FOREGOING AND AGREE TO SUBMIT DISPUTES ARISING OUT OF THE MATTERS INCLUDED IN THE 'ARBITRATION OF DISPUTES' PROVISION TO NEUTRAL ARBITRATION."

Buyer's Initials ERE, me Seller's Initials 1

23. **ASSIGNMENT:** Buyer shall not assign all or any part of Buyer's interests in this Agreement without first having obtained the written consent of Seller. Such consent shall not be unreasonably withheld, unless otherwise agreed in writing. Any total or partial assignment shall not relieve Buyer of Buyer's obligations pursuant to this Agreement.
24. **SUCCESSORS AND ASSIGNS:** This Agreement shall be binding upon, and inure to the benefit of, Buyer and Seller and their respective successors and assigns, except as otherwise provided herein.
25. **COPIES:** Seller and Buyer each represent that Copies of all reports, documents, certificates, approvals and other documents that are furnished to the other are true, correct and unaltered Copies of the original documents, if the originals are in the possession of the furnishing party.
26. **NOTICES:** Whenever notice is given under this Agreement, each notice shall be in writing, and shall be delivered personally, by facsimile, or by mail, postage prepaid. Notice shall be delivered to the address set forth below the recipient's signature of acceptance. Either party may change its notice address by providing notice to the other party.
27. **AUTHORITY:** Any person or persons signing this Agreement represent(s) that such person has full power and authority to bind that person's principal, and that the designated Buyer and Seller has full authority to enter into and perform this Agreement. Entering into this Agreement, and the completion of the obligations pursuant to this contract, does not violate any Articles of Incorporation, Articles of Organization, Bylaws, Operating Agreement, Partnership Agreement or other document governing the activity of either Buyer or Seller.
28. **GOVERNING LAW:** This Agreement shall be governed by the Laws of the state of California.
29. **PRORATIONS OF PROPERTY TAXES AND OTHER ITEMS:** Unless otherwise agreed in writing, the following items shall be PAID CURRENT and prorated between Buyer and Seller as of Close Of Escrow: real property taxes and assessments, interest, rents, HOA regular, special, and emergency dues and assessments imposed prior to Close Of Escrow, premiums on insurance assumed by Buyer, payments on bonds and assessments assumed by Buyer, and payments on Mello-Roos and other Special Assessment District bonds and assessments that are now a lien. The following items shall be assumed by Buyer WITHOUT CREDIT toward the purchase price: prorated payments on Mello-Roos and other Special Assessment District bonds and assessments and HOA special assessments that are now a lien but not yet due. Property will be reassessed upon change of ownership. Any supplemental tax bills shall be paid as follows: (i) for periods after Close Of Escrow, by Buyer; and (ii) for periods prior to Close Of Escrow, by Seller. TAX BILLS ISSUED AFTER CLOSE OF ESCROW SHALL BE HANDLED DIRECTLY BETWEEN BUYER AND SELLER. Prorations shall be made based on a 30-day month.
30. **WITHHOLDING TAXES:** Seller and Buyer agree to execute any instrument, affidavit, statement or instruction reasonably necessary to comply with federal (FIRPTA) and California withholding Law, if required (C.A.R. Form AS).
31. **MULTIPLE LISTING SERVICE/PROPERTY DATA SYSTEM:** If Broker is a participant of a Multiple Listing Service ("MLS") or Property Data System ("PDS"), Broker is authorized to report to the MLS or PDS a pending sale and, upon Close Of Escrow, the terms of this transaction to be published and disseminated to persons and entities authorized to use the information on terms approved by the MLS or PDS.
32. **EQUAL HOUSING OPPORTUNITY:** The Property is sold in compliance with federal, state and local antidiscrimination Laws.
33. **ATTORNEY FEES:** In any action, proceeding, or arbitration between Buyer and Seller arising out of this Agreement, the prevailing Buyer or Seller shall be entitled to reasonable attorney fees and costs from the nonprevailing Buyer or Seller, except as provided in paragraph 22A.
34. **SELECTION OF SERVICE PROVIDERS:** If Brokers refer Buyer or Seller to persons, vendors, or service or product providers ("Providers"), Brokers do not guarantee the performance of any Providers. Buyer and Seller may select ANY Providers of their own choosing.
35. **TIME OF ESSENCE; ENTIRE CONTRACT; CHANGES:** Time is of the essence. All understandings between the parties are incorporated in this Agreement. Its terms are intended by the parties as a final, complete and exclusive expression of their Agreement with respect to its subject matter, and may not be contradicted by evidence of any prior agreement or contemporaneous oral agreement. If any provision of this Agreement is held to be ineffective or invalid, the remaining provisions will nevertheless be given full force and effect. Neither this Agreement nor any provision in it may be extended, amended, modified, altered or changed, except in writing Signed by Buyer and Seller.

Buyer's Initials ERE, me
Seller's Initials () ()

Reviewed by _____ Date _____



1808 Abalone Avenue
Property Address: Torrance, CA 90501

Date: February 19, 2010

36. OTHER TERMS AND CONDITIONS, including attached supplements:

- A. ☒ Buyer Inspection Advisory (C.A.R. Form BIA)
B. ☐ Seller Financing Addendum and Disclosure (C.A.R. Form SFA)
C. ☐ Purchase Agreement Addendum (C.A.R. Form PAA paragraph numbers:)
D. ☐ Buyer Intent To Exchange Supplement (C.A.R. Form BES)
E. ☐ Seller Intent to Exchange Supplement (C.A.R. Form SES)
F. _____

37. DEFINITIONS: As used in this Agreement:

- A. "Acceptance" means the time the offer or final counter offer is accepted in writing by a party and is delivered to and personally received by the other party or that party's authorized agent in accordance with this offer or a final counter offer.
B. "Agreement" means the terms and conditions of this accepted Commercial Property Purchase Agreement and any accepted counter offers and addenda.
C. "C.A.R. Form" means the specific form referenced, or another comparable form agreed to by the parties.
D. "Close Of Escrow" means the date the grant deed, or other evidence of transfer of title, is recorded. If the scheduled close of escrow falls on a Saturday, Sunday or legal holiday, then close of escrow shall be the next business day after the scheduled close of escrow date.
E. "Copy" means copy by any means including photocopy, NCR, facsimile and electronic.
F. "Days" means calendar days, unless otherwise required by Law.
G. "Days After" means the specified number of calendar days after the occurrence of the event specified, not counting the calendar date on which the specified event occurs, and ending at 11:59PM on the final day.
H. "Days Prior" means the specified number of calendar days before the occurrence of the event specified, not counting the calendar date on which the specified event is scheduled to occur.
I. "Electronic Copy" or "Electronic Signature" means, as applicable, an electronic copy or signature complying with California Law. Buyer and Seller agree that electronic means will not be used by either one to modify or alter the content or integrity of the Agreement without the knowledge and consent of the other.
J. "Law" means any law, code, statute, ordinance, regulation, rule or order, which is adopted by a controlling city, county, state or federal legislative, judicial or executive body or agency.
K. "Notice to Buyer to Perform" means a document (C.A.R. Form NBP), which shall be in writing and Signed by Seller and shall give Buyer at least 24 hours (or as otherwise specified in paragraph 17C(4)) to remove a contingency or perform as applicable.
L. "Repairs" means any repairs (including pest control), alterations, replacements, modifications and retrofitting of the Property provided for under this Agreement.
M. "Signed" means either a handwritten or electronic signature on an original document, Copy or any counterpart.
N. Singular and Plural terms each include the other, when appropriate.

38. BROKERAGE: Neither Buyer nor Seller has utilized the services of, or for any other reason owes compensation to, a licensed real estate broker (individual or corporate), agent, finder, or other entity, other than as specified in this Agreement, in connection with any act relating to the Property, including, but not limited to, inquiries, introductions, consultations and negotiations leading to this Agreement. Buyer and Seller each agree to indemnify, defend, and hold the other, the Brokers specified herein and their agents, harmless from and against any costs, expenses or liability for compensation claimed inconsistent with the warranty and representations in this paragraph.

39. AGENCY:

- A. POTENTIALLY COMPETING BUYERS AND SELLERS: Buyer and Seller each acknowledge receipt of a disclosure of the possibility of multiple representation by the Broker representing that principal. This disclosure may be part of a listing agreement, buyer-broker agreement or separate document (C.A.R. Form DA). Buyer understands that Broker representing Buyer may also represent other potential buyers, who may consider, make offers on or ultimately acquire the Property. Seller understands that Broker representing Seller may also represent other sellers with competing properties of interest to this Buyer.

- B. CONFIRMATION: The following agency relationships are hereby confirmed for this transaction:

Listing Agent Coldwell Banker (Print Firm Name) is the agent
of (check one): ☒ the Seller exclusively; or ☐ both the Buyer and Seller.
Selling Agent Windermere Real Estate (Print Firm Name) (if not same
as Listing Agent) is the agent of (check one): ☒ the Buyer exclusively; or ☐ the Seller exclusively; or ☐ both the Buyer and Seller.
Seller. Real Estate Brokers are not parties to the Agreement between Buyer and Seller.

Buyer's Initials EKE JME
Seller's Initials () ()

Reviewed by _____ Date _____



1808 Abalone Avenue

Property Address: Torrance, CA 90501

Date: February 19, 2010

40. JOINT ESCROW INSTRUCTIONS TO ESCROW HOLDER:

A. The following paragraphs, or applicable portions thereof, of this Agreement constitute the joint escrow instructions of Buyer and Seller to Escrow Holder, which Escrow Holder is to use along with any related counter offers and addenda, and any additional mutual instructions to close the escrow: 1, 2, 4, 5, 16, 17E, 29, 30, 36, 36B-F, 37, 40, 42, 45A, 46 and paragraph D of the section titled Real Estate Broker on page 10. If a Copy of the separate compensation agreement(s) provided for in paragraph 42 or 45A, or paragraph D of the section titled Real Estate Broker on page 10 is deposited with Escrow Holder by Broker, Escrow Holder shall accept such agreement(s) and pay out from Buyer's or Seller's funds, or both, as applicable, the Broker's compensation provided for in such agreement(s). The terms and conditions of this Agreement not set forth in the specified paragraphs are additional matters for the information of Escrow Holder, but about which Escrow Holder need not be concerned. Buyer and Seller will receive Escrow Holder's general provisions directly from Escrow Holder and will execute such provisions upon Escrow Holder's request. To the extent the general provisions are inconsistent or conflict with this Agreement, the general provisions will control as to the duties and obligations of Escrow Holder only. Buyer and Seller will execute additional instructions, documents and forms provided by Escrow Holder that are reasonably necessary to close the escrow.

B. A Copy of this Agreement shall be delivered to Escrow Holder within 3 business days after Acceptance (or ☐). Buyer and Seller authorize Escrow Holder to accept and rely on Copies and Signatures as defined in this Agreement as originals, to open escrow and for other purposes of escrow. The validity of this Agreement as between Buyer and Seller is not affected by whether or when Escrow Holder Signs this Agreement.

C. Brokers are a party to the Escrow for the sole purpose of compensation pursuant to paragraphs 42, 45A and paragraph D of the section titled Real Estate Broker on page 10. Buyer and Seller irrevocably assign to Brokers compensation specified in paragraphs 42 and 45A, respectively, and irrevocably instruct Escrow Holder to disburse those funds to Brokers at Close Of Escrow, or pursuant to any other mutually executed cancellation agreement. Compensation instructions can be amended or revoked only with the written consent of Brokers. Escrow Holder shall immediately notify Brokers: (i) if Buyer's initial or any additional deposit is not made pursuant to this Agreement, or is not good at time of deposit with Escrow Holder; or (ii) if Buyer and Seller instruct Escrow Holder to cancel escrow.

D. A Copy of any amendment that affects any paragraph for which Escrow Holder is responsible shall be delivered to Escrow Holder within 2 business days after mutual execution of the amendment.

41. SCOPE OF BROKER DUTY: Buyer and Seller acknowledge and agree that Brokers: (i) do not decide what price Buyer should pay or Seller should accept; (ii) do not guarantee the condition of the Property (iii) do not guarantee the performance, adequacy or completeness of inspections, services, products or repairs provided or made by Seller or others; (iv) shall not be responsible for identifying defects that are not known to Broker(s); (v) shall not be responsible for inspecting public records or permits concerning the title or use of the Property; (vi) shall not be responsible for identifying location of boundary lines or other items affecting title; (vii) shall not be responsible for verifying square footage, representations of others or information contained in inspection reports, MLS or PDS, advertisements, flyers or other promotional material, unless otherwise agreed in writing; (viii) shall not be responsible for providing legal or tax advice regarding any aspect of a transaction entered into by Buyer or Seller in the course of this representation; and (ix) shall not be responsible for providing other advice or information that exceeds the knowledge, education and experience required to perform real estate licensed activity. Buyer and Seller agree to seek legal, tax, insurance, title and other desired assistance from appropriate professionals.

42. BROKER COMPENSATION FROM BUYER: If applicable, upon Close Of Escrow, Buyer agrees to pay compensation to Broker as specified in a separate written agreement between Buyer and Broker.

43. TERMS AND CONDITIONS OF OFFER: This is an offer to purchase the Property on the above terms and conditions. All paragraphs with spaces for initials by Buyer and Seller are incorporated in this Agreement only if initialed by all parties. If at least one but not all parties initial, a counter offer is required until agreement is reached. Seller has the right to continue to offer the Property for sale and to accept any other offer at any time prior to notification of Acceptance. Buyer has read and acknowledges receipt of a Copy of the offer and agrees to the above confirmation of agency relationships. If this offer is accepted and Buyer subsequently defaults, Buyer may be responsible for payment of Brokers' compensation. This Agreement and any supplement, addendum or modification, including any Copy, may be Signed in two or more counterparts, all of which shall constitute one and the same writing.

44. EXPIRATION OF OFFER: This offer shall be deemed revoked and the deposit shall be returned, unless the offer is Signed by Seller, and a Copy of the Signed offer is personally received by Buyer, or by Linda Wilson, who is authorized to receive it by 5:00 PM on the third Day after this offer is signed by Buyer (OR, if checked ☐ by February 23, 2010 (date), at ☐ AM ☐ PM).

Buyer Ernest Emerson
By Ernest Emerson Date 2-19-10
Print name Ernest Emerson
Address 9 Dobbin Lane City Rolling Hills Estates State CA Zip 90274
Telephone 310-544-6185 Fax 310-544-6017 E-mail eknives@aol.com
W 310-212-7455 W 310-212-7287
Buyer Mary Emerson
By Mary Emerson Date 2-19-10
Print name Mary Emerson
Address 9 Dobbin Lane City Rolling Hills Estates State CA Zip 90274
Telephone 310-212-7455 Fax 310-544-0185 E-mail eknives@aol.com
Notice Address, if Different 310-212-7287

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CPA REVISED 10/02 (PAGE 9 OF 10)

COMMERCIAL PROPERTY PURCHASE AGREEMENT (CPA PAGE 9 OF 10)

EXHIBIT I

Buyer's Initials (EE)(ME)
Seller's Initials () ()

Reviewed by _____ Date _____



Ernest and Mar

1808 Abalone Avenue

Property Address: Torrance, CA 90501

Date: February 19, 2010

45. BROKER COMPENSATION FROM SELLER:

A. Upon Close Of Escrow, Seller agrees to pay compensation to Broker as specified in a separate written agreement between Seller and Broker.

B. If escrow does not close, compensation is payable as specified in that separate written agreement.

46. ACCEPTANCE OF OFFER: Seller warrants that Seller is the owner of the Property, or has the authority to execute this Agreement. Seller accepts the above offer, agrees to sell the Property on the above terms and conditions, and agrees to the above confirmation of agency relationships. Seller has read and acknowledges receipt of a Copy of this Agreement, and authorizes Broker to deliver a Signed Copy to Buyer.

☐ (If checked) SUBJECT TO ATTACHED COUNTER OFFER, DATED _____

Seller By _____ Date _____

Print name _____

Address _____ City _____ State _____ Zip _____

Telephone _____ Fax _____ E-mail _____

Seller By _____ Date _____

Print name _____

Address _____ City _____ State _____ Zip _____

Telephone _____ Fax _____ E-mail _____

Notice Address, If Different _____

(_____/_____) Confirmation of Acceptance: A Copy of Signed Acceptance was personally received by Buyer or Buyer's authorized agent on (date) _____ at _____ ☐ AM ☐ PM. A binding Agreement is created when a Copy of Signed Acceptance is personally received by Buyer or Buyer's authorized agent whether or not confirmed in this document. Completion of this confirmation is not legally required in order to create a binding Agreement; it is solely intended to evidence the date that Confirmation of Acceptance has occurred.

REAL ESTATE BROKERS:

A. Real Estate Brokers are not parties to the Agreement between Buyer and Seller.

B. Agency relationships are confirmed as stated in paragraph 39 above.

C. If specified in paragraph 2A, Agent who submitted offer for Buyer acknowledges receipt of deposit.

D. **COOPERATING BROKER COMPENSATION:** Listing Broker agrees to pay Cooperating Broker (Selling Firm) and Cooperating Broker agrees to accept, out of Listing Broker's proceeds in escrow: (i) the amount specified in the MLS or PDS, provided Cooperating Broker is a Participant of the MLS or PDS in which the property is offered for sale or a reciprocal MLS or PDS; or (ii) ☐ (If checked) the amount specified in a separate written agreement (C.A.R. Form GBC) between Listing Broker and Cooperating Broker.

Real Estate Broker (Selling Firm) Windermere Real Estate DRE Lic. # 01325548

By Linda Wilson and Karen Price DRE Lic. # 00817477 Date February 19, 2010

Address 59465 Hwy 74 City Mountain Center State Ca Zip 92551

Telephone 951 682-9213 Fax 951 682-5833 E-mail Lindawilson@windermere.com

Real Estate Broker (Listing Firm) Goldwell Banker DRE Lic. # _____

By Michael Douglas DRE Lic. # _____ Date _____

Address _____ City _____ State _____ Zip _____

Telephone _____ Fax _____ E-mail _____

ESCROW HOLDER ACKNOWLEDGMENT:

Escrow Holder acknowledges receipt of a Copy of this Agreement, (if checked, ☐ a deposit in the amount of \$ _____), counter offer numbers _____ and _____

_____, and agrees to act as Escrow Holder subject to paragraph 40 of this Agreement, any supplemental escrow instructions and the terms of Escrow Holder's general provisions.

Escrow Holder is advised that the date of Confirmation of Acceptance of the Agreement as between Buyer and Seller is _____

Escrow Holder Sellers choice Escrow # _____

By _____ Date _____

Address _____

Phone/Fax/E-mail // _____

Escrow Holder is licensed by the California Department of ☐ Corporations, ☐ Insurance, ☐ Real Estate. License # _____

(_____/_____) **REJECTION OF OFFER:** No counter offer is being made. This offer was reviewed and rejected by Seller on (Seller's initials) _____ (Date) _____

THIS FORM HAS BEEN APPROVED BY THE CALIFORNIA ASSOCIATION OF REALTORS® (C.A.R.). NO REPRESENTATION IS MADE AS TO THE LEGAL VALIDITY OR ADEQUACY OF ANY PROVISION IN ANY SPECIFIC TRANSACTION. A REAL ESTATE BROKER IS THE PERSON QUALIFIED TO ADVISE ON REAL ESTATE TRANSACTIONS. IF YOU DESIRE LEGAL OR TAX ADVICE, CONSULT AN APPROPRIATE PROFESSIONAL.

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Reviewed by _____ Date _____

COMMERCIAL PROPERTY PURCHASE AGREEMENT (CPA PAGE 10 OF 10)



Ernest and May



February 18, 2010,

To Whom It May Concern:

Cal Metro Mortgage is pleased to notify you that Ernest and Mary Emerson have been Pre-Approved for a loan with the following terms:

| | |
|---------------|-------------|
| Type | SBA 7(a) |
| Sales Price | \$1,200,000 |
| Loan Amount | \$1,080,000 |
| Interest Rate | Up to 6.50% |

This approval is based on a full documentation loan with information provided to me, as well as their excellent credit scores, copy of which is available upon request. The approval is based on the following:

Appraisal
Preliminary Title Report
Phase 1 study

Cal Metro is a division of *Prospect Mortgage* which is a direct lender. If you should have any questions, please do not hesitate to give me a call at (760) 836-0648.

Sincerely,

Lori Gray

Lori A Gray
Senior Loan Officer

74-850 Highway 111
Indian Wells, CA 92210
760-836-0648 Office
EXHIBIT 1

EXHIBIT 2
Easement Assets Acquisition Agreement

EASEMENT ACQUISITION AGREEMENT

THIS EASEMENT ACQUISITION AGREEMENT (this "Agreement") is made effective as of the latter signature date hereof (the "Effective Date"), by and between **SpectraSite Communications, LLC**, a Delaware limited liability company ("Buyer"), and **Huntley G. Hoilett and Juliana C. Hoilett, husband and wife, as joint tenants**, ("Seller").

WITNESSETH:

WHEREAS, Seller owns the real property described on **Exhibit A** hereto (the "Premises");

WHEREAS, Seller currently leases the Premises, or a portion thereof, to Buyer or Buyer's affiliate, pursuant to the terms of that certain lease agreement dated May 2, 1996, between W. Kenneth Ross and Carole A. Ross, predecessor to Seller's interest, as lessor, and SMART SMR OF CALIFORNIA, INC, a Delaware corporation, predecessor to Buyer's interest, as lessee (as the same may have been amended from time to time, the "Lease"); and

WHEREAS, Buyer desires to acquire from Seller, and Seller desires to grant to Buyer, certain easements as more particularly described in Section 1 hereof, and Seller desires to assign to Buyer, and Buyer desires to assume from Seller, its rights and obligations under the Lease, all upon the terms and conditions hereinafter set forth.

NOW THEREFORE, for and in consideration of the covenants and agreements herein contained and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

1. **Easements to be Granted and Purchased and Assignment of Lease.** On the terms, and subject to the conditions set forth in this Agreement, at Closing, Seller shall sell and grant to Buyer, or an affiliate of Buyer designated in writing to Seller prior to the Closing (a "Designated Buyer"), and Buyer or a Designated Buyer agrees to purchase from Seller: (i) a perpetual, exclusive easement (the "Exclusive Easement") in and to that portion of the Premises more particularly described on **Exhibit B** hereto, for the purpose of the Permitted Use (as such term is defined in Section 1.2 below); and (ii) a perpetual, non-exclusive easement in and to that portion of the Premises more particularly described on **Exhibit C** hereto (the "Access and Utility Easement"), for the Access and Utility Uses (as such term is defined in Section 1.3 below). On the terms, and subject to the conditions set forth in this Agreement, at Closing, Seller shall assign to Buyer, or a Designated Buyer, and Buyer or a Designated Buyer shall assume from Seller all rights and obligations of Seller as lessor under the Lease arising or accruing on or after the Closing, provided that Buyer hereby agrees to indemnify Seller for all matters arising under the Lease following the date of Closing.

As used in this Agreement:

1.1 the term "Easements" shall collectively mean the Exclusive Easement and the Access and Utility Easement;

1.2 the term "Permitted Use" means the installation, location, construction, operation, maintenance, repair, modification, relocation, replacement and removal of improvements and equipment which may from time to time be located on the Easements by Buyer, its customers, lessees, sublessees, licensees, agents, successors and assigns for the facilitation of communications and other related uses in connection therewith; and

1.3 the term "Access and Utility Uses" means vehicular and pedestrian access from and to the Exclusive Easement, and the installation, location, construction, operation, maintenance, repair, modification, relocation, replacement, and removal by Buyer, its customers, lessees, sublessees, licensees, agents, successors and assigns of storm sewer lines, sanitary sewer pipes, water and gas mains, electric power lines, telephone lines, data lines and other utility lines serving the real property encompassed by the Exclusive Easement.

2. **Purchase Price.** Buyer shall pay or cause to be paid to Seller the sum of **Two Hundred Twenty Thousand and 00/100 Dollars (\$220,000.00)** (the "Purchase Price"). The Purchase Price shall be paid by title company escrow account check or wire transfer of immediately available funds to an account designated in writing by Seller, adjusted for the prorations and adjustments in accordance with this Agreement. Seller and Buyer hereby acknowledge and agree that the Purchase Price shall be tendered by Buyer to Seller at Closing, provided that Buyer is able to obtain title insurance coverage insuring that period from the last title update performed by Buyer's title insurer through the recording and indexing of the Easement Agreement ("Gap Insurance"). If Buyer is unable to obtain Gap Insurance, then the Purchase Price shall be conveyed to Seller upon the running of a title update on the Premises and the recording of the Easement Agreement.

3. **Title and Feasibility Period.** Seller shall convey good and marketable title to the Easements to Buyer, insurable as such at regular rates by a national title insurance company of Buyer's choice, provided however that insurability shall not be deemed evidence of good and marketable title in and of itself. Prior to the expiration of the Feasibility Period (as defined below), Buyer shall furnish Seller with a written statement (the "Title and Survey Objection Letter") of any objections affecting title to the Easements and any objections to items shown on the Survey (as defined in Section 4) (collectively, the "Objections"). Seller shall use commercially reasonable efforts to cure such Objections prior to Closing. If Seller fails to cure such Objections by the date of Closing, then at the option of Buyer, in Buyer's sole discretion, Buyer may, by written notice to

Seller, (i) elect to terminate this Agreement and neither party shall have any further rights or obligations under this Agreement; (ii) elect to consummate its purchase of the Easements and proceed to Closing irrespective of such Objections, in which case such Objections shall be deemed waived by Buyer; or (iii) elect to extend the date of Closing for an additional 30 days in order to permit Seller additional time to undertake reasonable efforts to cure such Objections (the "Objection Extension Period"). Seller's failure to cure all such Objections within the Objection Extension Period shall then permit Buyer to elect one of its options under the above clauses (i) or (ii) of this Section 3. The "Feasibility Period" means the period commencing on the Effective Date and ending at 11:59 p.m. 30 days thereafter.

4. Survey. Buyer shall, at Buyer's expense, order a boundary, as built or similar survey of the Easements (the "Survey") from a surveyor duly licensed under the laws of the state in which the Premises is located. The legal description(s) prepared as part of the Survey shall replace those legal descriptions included on Exhibit A, Exhibit B, and Exhibit C of this Agreement at time of execution of this Agreement.

5. Conditions Precedent to Buyer's Performance; Conditions Precedent to Closing.

5.1 Feasibility Conditions. Buyer's performance of its obligations under this Agreement is contingent upon the Buyer's determination during the Feasibility Period, in Buyer's reasonable discretion, that: (i) the title to the Easements is acceptable to Buyer; (ii) the Survey of the Easements does not reveal any issues that would prevent or hinder Buyer's intended use of the Easements; and (iii) the use of the Easements by Buyer and the financial transaction contemplated herein is satisfactory to Buyer. If Buyer desires to terminate this Agreement because of the failure of any condition precedent set forth in this Section 5.1, then Buyer shall notify Seller in writing of such termination on or prior to the expiration of the Feasibility Period, and this Agreement shall then be deemed null and void.

5.2 Closing Conditions. Buyer's obligation to consummate the Closing on the Easements shall be subject to the following conditions precedent: (i) Seller's performance of its obligations under this Agreement; (ii) Buyer's determination that there are no applicable laws, statutes, ordinances, judicial decisions, decrees, rulings or regulations, threatened or filed, which would prevent or interfere with the grant of the Easements or the use of the Easements by Buyer for its present or future purposes[intentionally omitted]; (iii) at Closing the status of title to the Easements shall not have detrimentally changed from the status of title to the Easements as of the Effective Date, except for any title remediation requested by Buyer and performed by Seller in accordance with the terms of this Agreement; (iv) there is no moratorium or other governmental prohibition in force of a general application as of the Closing that would prevent the continued use and future development of the Easements by Buyer; (v) all of Seller's representations and warranties in this Agreement shall be true and correct as of the Effective Date and at Closing; (vi) the Easements shall be transferred to Buyer free and clear of all liens and interests in accordance with Section 363 of the United States Bankruptcy Code, as reflected in a final order of a United States Bankruptcy Court; (vii) [Intentionally Omitted]; and (viii) Seller shall have obtained the consent and subordination (on Buyer's standard subordination form) of the lien of any mortgagees, or other persons having a lien upon or security interest in the Premises, to the Easement Agreement (as such term is defined in Section 8.1 below); and (ix) Seller shall have paid prior to Closing all delinquent taxes or taxes otherwise due and payable with respect to the Premises, or in event so not paid prior to Closing, Seller covenants to pay all delinquent taxes or taxes otherwise due and payable with respect to the Premises contemporaneously with the Closing. If any of the conditions specified in this Section 5.2 are not satisfied and/or do not exist at the time of Closing, Buyer, at its sole option, may either notify Seller that it is terminating this Agreement or may extend from time to time the date for Closing to permit fulfillment of such conditions, which extension(s) shall not exceed a period in the aggregate of 30 days following the date set for Closing pursuant to Section 8.

5.3. In order to assist Buyer in its evaluations and determinations under sections 5.1 and 5.2, Buyer shall, at all times have the privilege of going upon the Premises with its employees, contractors or agents as needed to inspect, examine, survey and otherwise do what is commercially reasonable in the evaluation, engineering and planning for the continued use of the Easements. Such privilege shall include the right to make soil tests, borings, percolation tests and tests to obtain other information necessary to determine surface, subsurface, environmental and topographic conditions; provided however, that the Buyer shall hold the Seller harmless from any damages incurred through the exercise of such privilege, and shall repair and damage caused by virtue of its inspections made pursuant to this Section 5.3.

5.4 Notwithstanding anything contained to the contrary in this Agreement or any other related agreement, Buyer shall have the right but not the obligation to close the transaction contemplated herein at any time prior to June 30, 2009 11:59 p.m. subject only to the satisfaction of the condition precedent provided in Section 5.2, sub-paragraph (vi).

6. Representations and Warranties of Seller. Seller hereby represents, warrants, and agrees as of the date hereof, and will reaffirm same as of the date of Closing, as follows:

6.1 Seller has the right, power and authority to (a) grant the Easements to Buyer in accordance with the terms and conditions hereof, (b) execute and deliver this Agreement and all other documents to be executed and delivered, either simultaneously herewith or at Closing, in connection with the transaction contemplated herein, and (c) perform all obligations of Seller that arise under this Agreement or under such documents.

6.2 Seller is the sole owner of fee simple title to all of the Premises, subject only to the title exceptions as identified and addressed pursuant to Section 3 hereof, or agreed to by Buyer in writing (such agreement being expressly withheld with respect to any mortgagees, or other persons having a lien upon or security interest in the Premises, unless and until such persons execute Buyer's standard subordination form, subject to any reasonable modification requested by such lienholder). Seller has granted no outstanding options to purchase or rights of first refusal with respect to all or any part of the Easements and except for the Lease has entered into no outstanding contracts with others for the sale, mortgage, pledge, hypothecation, assignment, lease or other transfer of all or any part of the Easements.

6.3 Seller has paid, or will pay at or prior to Closing, all taxes, assessments, charges, fees, levies and impositions relating to the Easements coming due prior to the Closing.

6.4 Seller has not received notice of condemnation of all or any part of the Easements, notice of any assessment for public improvements, or notices with respect to any zoning ordinance or other law, order, regulation or requirement relating to the use or ownership of such lands and there exists no violation of any such governmental law, order, regulation or requirement.

6.5 Seller is not indebted to the federal government or any other public authorities for delinquent taxes, assessments or other charges of any nature whatsoever for which a lien has been or could be asserted against the Easements or the Buyer, or affect Buyer's interest in and to the Easements, and which will not be fully paid and discharged or released at or prior to Closing.

6.6 There are no leases, written or oral, affecting the lands underlying the Easements except for the Lease and any agreements entered into between Buyer or its affiliates and third parties.

6.7 There is no litigation pending or threatened, which in any manner affects the Easements.

6.8 The lands underlying the Easements do not constitute or form a part of the homestead, constitutional or otherwise, of Seller, nor does the Seller reside on any part of the lands underlying the Easements, or, in the event that the Easements are located upon homestead property, then Seller's spouse shall join in the execution of this Agreement and the Easement Agreement.

6.9 To the knowledge of Seller, without any duty of investigation: (i) all utilities currently utilized for the operation of the towers, buildings, and other improvements located on the Exclusive Easement enter the Access and Utility Easement (or the Exclusive Easement, if applicable) through adjoining public streets or, if they pass through an adjoining private tract, do so in accordance with valid public or private easements that benefit the Exclusive Easement; (ii) the Access and Utility Easement (or the Exclusive Easement, if applicable) abuts on and has direct vehicular access to a public road, or has access to a public road via a permanent, irrevocable, appurtenant easement benefiting the Premises and the Exclusive Easement; and (iii) there exists no fact or condition that could result in the termination or reduction of the current access from the Exclusive Easement or Access and Utility Easement to existing highways and roads, or to sewer, electric, or other utility services serving the Exclusive Easement through the Access and Utility Easement.

6.10 The representations and warranties made hereunder shall survive the Closing for a period of two (2) years. Seller agrees to indemnify and hold Buyer harmless from and against all actual damages incurred directly resulting from demands, claims, actions, causes of action, assessments, expenses, costs, damages, losses, and liabilities (including reasonable attorneys' fees and costs) that arise or accrue within two (2) years following the Closing, and which are incurred by reason of the breach of any of the warranties and representations made herein (the "Breach Damages"). Notwithstanding anything contained to the contrary in this agreement or otherwise provided by applicable law, the dollar amount of the Breach Damages shall be capped at Two Hundred and Twenty Thousand Dollars (\$220,000), except for a knowingly and willful material misrepresentation which shall be capped at Four Hundred and Forty Thousand Dollars (\$440,000).

6.11 Between the Effective Date and the date of Closing, Seller covenants and agrees that, without Buyer's written consent: (i) Seller shall not enter into any new leases or tenancies with respect to the Premises that would adversely affect Buyer's use of the Easements; (ii) Seller shall not grant or permit any new encumbrances on or about the Premises that would adversely affect Buyer's use of the Easements; (iii) Seller shall not in any way materially alter the present state of the lands underlying the Easements; and (iv) Seller shall not undertake or omit to undertake any other act which might have a material, adverse effect on the Easements or the operations thereof as currently conducted.

7. Seller's Undertakings. Seller shall deliver as soon as reasonably practicable to Buyer true, correct and complete copies of any surveys, title reports, environmental reports, or other documents and items reasonably requested by Buyer and related to the Easements and/or the lands underlying same, to the extent that the same exist and are in the possession and/or control of Seller or an affiliate thereof.

8. Closing, Delivery of Easement, and Possession. The closing ("Closing") of this transaction shall be held in the offices of the title company or agent selected by Buyer, and located in the vicinity of the Premises, on or before 15 days

following the expiration of the Feasibility Period (or at any time either within the Feasibility Period or within 15 days thereafter, upon 4 days notice by Buyer to Seller) subject to Buyer's extension rights set forth in Section 3 and Section 5.2 hereof. At Closing, Seller shall deliver:

8.1 a recordable Easement Agreement in the form attached hereto as **Exhibit D** (the "Easement Agreement"), subject to completion of exhibits and to further modification in order that such Easement Agreement shall comply with the laws, rules and regulations of the state or municipal governmental unit in which the Premises is located;

8.2 a standard title affidavit (which shall include a non-foreign person affidavit), which would be sufficient in form for Buyer's title company (if any) to issue a title insurance policy without the standard exceptions, including, without limitation, mechanic's, materialmen's or other statutory liens; and parties in possession; and which is sufficient to allow Buyer's title insurance company to issue the Gap Insurance;

8.3 Seller's certificate stating that all representations and warranties made by Seller in this Agreement are true in all respects as of the Closing;

8.4 a closing statement duly executed by Seller and Buyer setting forth in reasonable detail the financial transaction contemplated by this Agreement, including without limitation the Purchase Price, all prorations, the allocation of costs specified herein, and the source, application and disbursement of all funds;

8.5 any and all governmental transfer tax forms, if applicable;

8.6 any and all documents and papers that may be reasonably necessary in connection with the consummation of the transactions contemplated by this Agreement; and

8.7 Any real estate transfer taxes due in connection herewith shall be split between Buyer and Seller at Closing. Buyer shall pay for the preparation and recording of the Easement Agreement and the fee payable to the title company or agent in connection with the services requested by Buyer. Seller shall pay its own counsel fees. Rent paid (or payable) by Buyer or Buyer's affiliate under the Lease shall be prorated as of the date of the Closing. To the extent Seller is obligated to pay for water and sewer rents and other utility charges, if any, under the Lease, such rents and charges shall be paid by Seller up to the time of Closing.

9. Acts Following Closing. After Closing, in addition to such other matters as may otherwise be required herein, if there shall remain any matter to be done which shall not have been completed prior to Closing, then both Seller and Buyer agree with the other to promptly take such steps as may be reasonable or necessary after Closing in order to complete such matters.

10. Broker/Seller's Agent. Seller and Buyer each represent to the other that no real estate broker, commission agent or other person is entitled to any commission with respect to the transactions herein contemplated (collectively, "Broker"). Except with regard to a breach of Buyer's warranty set forth in this Section 10, Seller hereby indemnifies and holds Buyer harmless from any loss, cost, damages and expenses arising out of a brokerage, commission, or fee due or alleged to be due in connection with this Agreement or the transactions contemplated hereby. Except with regard to a breach of Seller's warranty set forth in this Section 10, Buyer hereby indemnifies and holds Seller harmless from any loss, cost, damage and expense arising out of a brokerage commission or fee due or alleged to be due arising out of breach of Buyer's warranty set forth in this Section 10. The foregoing representations and warranties shall survive Closing.

11. Risk of Loss. If legal title to the Easements has not been transferred to Buyer, and all or a material part of the improvements upon the Easements are destroyed or subject to an eminent domain action prior to such transfer, then Buyer shall be entitled, at its option, to: (i) terminate this Agreement, in which event both parties shall be relieved of all liability hereunder, or (ii) proceed to Closing, in which case all applicable insurance or condemnation proceeds will be assigned to and payable to Buyer.

12. Remedies of Seller. In the event of Buyer's default under this Agreement, Seller agrees to provide Buyer with written notice specifying the nature of such default. Buyer shall have 30 days from the date of receipt of said notice to cure said default. In the event Buyer does not cure such default within such 30 day period, and provided that Seller has fully performed all of its obligations hereunder, then Seller may terminate this Agreement and pursue the remedies set forth in the following paragraph of this Section 12.

If Buyer has breached its covenants and agreements under this Agreement and, following the notice and cure provided for in the first paragraph of this Section 12, has failed, refused or is unable to consummate the purchase and sale contemplated herein by the date of Closing then Seller may, at its sole election: (i) terminate this Agreement, (ii) pursue specific performance plus the cost of obtaining specific performance or (iii) pursue any or all of its remedies at law and equity, including, but not limited to, monetary damages, provided that damages recoverable by Seller shall not be in excess of the Purchase Price.

13. Remedies of Buyer. In the event of Seller's default under this Agreement, Buyer agrees to provide Seller with written notice specifying the nature of such default. Seller shall have 30 days from the date of receipt of said notice to cure said default. In the event Seller does not cure such default within such 30 day period, and provided that Buyer has fully performed all of its obligations hereunder, then Buyer may terminate this Agreement and pursue the remedies set forth in the following paragraph of this Section 13.

If Seller has breached its covenants and agreements under this Agreement and, following the notice and cure provided for in the first paragraph of this Section 13, has failed, refused or is unable to consummate any purchase and sale contemplated herein by the date of Closing then Buyer may, at its sole election: (i) terminate this Agreement, (ii) pursue specific performance plus the cost of obtaining specific performance or (iii) pursue any or all of its remedies at law and equity, including, but not limited to, monetary damages, provided that damages recoverable by Buyer shall not be in excess of the Purchase Price.

14. Miscellaneous Provisions.

14.1. Assignability/Binding Effect. This Agreement may be assigned by Buyer prior to the Closing, including but not limited to an assignment by Buyer to a affiliate of Buyer. Seller may not assign its rights or obligations under this Agreement, except with the written consent of Buyer, which consent shall not be unreasonably withheld, conditioned or delayed. This Agreement shall be binding upon and inure to the benefit of the parties' respective heirs, personal representatives, successors, and assigns. No representations, warranties or promises pertaining to this Agreement, the Premises or the Easements have been made by, or shall be binding upon, either Buyer or Seller, except as expressly stated herein.

14.2. Notices. All notices required to be given by any of the provisions of this Agreement, unless otherwise stated, shall be in writing and delivered in person or by a national overnight delivery service (and shall be effective when received, when refused or when the same cannot be delivered) to the appropriate party at the address set forth below (or such other address as has been designated in writing by either party hereto):

To Buyer: SpectraSite Communications, LLC
c/o American Tower
10 Presidential Way
Woburn, MA 01801
Attn: Land Management

With copy to: SpectraSite Communications, LLC
c/o American Tower
116 Huntington Avenue
Boston, MA 02116
Attn: Legal Department

To Seller: Huntley Hoilett
P.O. Box 5406
Carson, CA 90749-5406

14.3. Survival of Provisions. The representations, indemnities, warranties, and other provisions of this Agreement shall survive (and shall not merge into) the delivery of the fully executed Easement Agreement for a period of two (2) years, and the parties hereto shall comply with the provisions hereof notwithstanding such delivery.

14.4. Severability. If any provision of this Agreement is deemed unenforceable in whole or in part, such provision shall be limited to the extent necessary to render the same valid or shall be excised from this Agreement, as circumstances require, and this Agreement shall be construed as if such provision had been so limited or as if such provision had not been included herein, as the case may be.

14.5. Attorney's Fees. In the event of any dispute arising hereunder and if litigation is commenced, any substantially prevailing party shall be entitled to recover from the other party all costs and expenses incurred in connection with such litigation, including, but not limited to, reasonable attorneys' fees and costs.

14.6. Entire Understanding and Amendment. This Agreement (including the Easement Agreement attached hereto as Exhibit "D"), and the closing documents executed in connection with the Closing, constitute the entire understanding between the parties with regard to the subject matter hereof and there are no representations, inducements, conditions, or other provisions other than those expressed herein. This Agreement may not be modified, amended, altered or changed in any respect except by written agreement and signed by the party to be charged.

14.7. Applicable Law. This Agreement shall be governed by and construed in accordance with the laws of the state or commonwealth where the Premises is located.

14.8. Captions and Headings. The captions and headings in this Agreement are for convenience and shall not be held or deemed to define, limit, describe, explain, modify, amplify or add to the interpretation, construction or meaning of any provisions of or the scope or intent of this Agreement.

14.9 Cumulative Remedies. Except as otherwise provided herein, each and every one of the rights, benefits and remedies provided to Buyer or Seller by this Agreement, or by any instrument or documents executed pursuant to this Agreement, are cumulative and shall not be exclusive of any other of said rights, remedies and benefits allowed by law or equity to the Buyer.

14.10 Counterparts. This Agreement may be executed in one or more counterparts, and by the different parties hereto in separate counterparts, each of which when executed shall be deemed to be an original but all of which taken together shall constitute one and the same agreement.

[Signatures Appear on Following Page]

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed as of the dates written below.

BUYER:

SpectraSite Communications, LLC,
a Delaware limited liability company

By: Steven O. Vondran

Title: Sr. Vice President, Leasing Operations

Date: 5/19/01

ACCEPTANCE

Under seal, the undersigned Seller warrants and represents that Seller is the sole record owner of the Premises with the full and complete right to grant the Easements and assign the Lease as contemplated hereunder. The Seller hereby accepts the foregoing offer this _____ day of _____, 20____, and agrees to perform as set-forth in this Agreement.

SELLER:

By: _____

Its: **Huntley G. Hoilett**
Land Owner

SELLER:

By: _____

Juliana C. Hoilett
Land Owner

Exhibit A

Description of Premises

PARCEL A:

PARCEL 1 OF PARCEL MAP NO. 10087 IN THE COUNTY OF LOS ANGELES, STATE OF CALIFORNIA, AS PER MAP FILED IN BOOK 93 PAGE 2 OF PARCEL MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY.

RESERVING THEREFROM AN EASEMENT FOR INGRESS AND EGRESS OVER THOSE PORTIONS OF SAID PARCEL 1 INCLUDED WITHIN THE LINES OF THAT CERTAIN AREA SHOWN ON SAID MAP AS A 29 FOOT RECIPROCAL EASEMENT FOR INGRESS AND EGRESS AND SURFACE DRAINAGE PURPOSES.

PARCEL B:

AN EASEMENT FOR INGRESS AND EGRESS OVER THOSE PORTIONS OF PARCEL 2 AND 3 OF PARCEL MAP NO. 10087 IN THE COUNTY OF LOS ANGELES, STATE OF CALIFORNIA, AS PER MAP FILED IN BOOK 93 PAGE 2, OF PARCEL MAPS IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY INCLUDED WITHIN THE LINES OF THAT CERTAIN AREA SHOWN ON SAID MAP AS A 29 FOOT RECIPROCAL EASEMENT FOR INGRESS AND EGRESS AND SURFACE DRAINAGE PURPOSES.

and otherwise known as: 1808 Abalone Avenue, Torrance, California

APN: 7357-026-036

Exhibit B

Description of Exclusive Easement

This Exhibit B shall be replaced by an As-Built Survey conducted by Grantee which shall reflect the greater of: (a) the approximately One Thousand Five Hundred and Ninety-Two and ½ (1,592.5) square feet as leased pursuant to the Lease, and (b) the now fenced off area contiguous to the space as leased pursuant to the Lease.

Exhibit C

Description of Access and Utility Easement

AN EASEMENT FOR INGRESS AND EGRESS FROM THE EXCLUSIVE EASEMENT TO THE NEAREST PUBLIC RIGHT OF WAY AS FOLLOWS SUBJECT TO REPLACEMENT BY A METES AND BOUNDS DESCRIPTION FROM AN AS-BUILT SURVEY.

ACCESS/UTILITY EASEMENT (AS-SURVEYED):

A STRIP OF LAND 12.00 FEET WIDE LYING 8.00 FEET ON EACH SIDE OF THE FOLLOWING DESCRIBED CENTERLINE:

BEGINNING AT POINT "A" AS DESCRIBED IN THE LEASE AREA DESCRIPTION; THENCE SOUTH 00° 34' 10" EAST 26.00 FEET TO THE SOUTHERLY LINE OF SAID PARENT PARCEL.

THE SIDELINES OF SAID STRIP OF LAND SHALL BE LENGTHENED OR SHORTENED TO BEGIN ON THE SOUTHERLY LINE OF SAID LEASE AREA AND END ON THE SOUTHERLY LINE OF SAID PARENT PARCEL.

ACCESS NARRATIVE:

BEGINNING AT A DRIVEWAY LOCATED ON ABALONE AVENUE, A DEDICATED PUBLIC STREET, HEAD EASTERLY APPROXIMATELY 220 FEET TO THE SITE, LOCATED ON NORTH SIDE OF EASEMENT IN AN ASPHALT PARKING AREA. THE SITE ACCESS IS ASPHALT AND THE SMALLEST WIDTH IS 12.00 FEET.

Exhibit D

(to Easement Acquisition Agreement)

Prepared by and Return to:
Todd McElheney, Esq. / Nancy Zhang
Land Management,
American Tower
10 Presidential Way,
Woburn, MA 01801
Site No.: 302318
Site Name: Torrence Hospital, CA

(Recorder's Use Above this Line)

EASEMENT AGREEMENT

This Easement Agreement ("Agreement") dated as of _____, 200__, by and between **SpectraSite Communications, LLC**, a Delaware limited liability company ("Grantee"), and **Huntley G. Hoilett and Juliana C. Hoilett, husband and wife, as joint tenants** (collectively, "Grantee").

BACKGROUND

Grantor is the owner of the real property described on Attachment "A" hereto (the "Premises"). Grantor desires to grant to Grantee certain easement rights with respect to the Premises, as more particularly described below, and subject to the terms and conditions of this Agreement.

AGREEMENTS

For and in consideration of the covenants and agreements herein contained and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

1. Grant of Easements. Grantor, for itself and its heirs, personal representatives, successors and assigns, hereby grants and conveys unto Grantee, its customers, lessees, sublessees, licensees, agents, successors and assigns: (i) a perpetual, exclusive easement (the "Exclusive Easement") in and to that portion of the Premises more particularly described on Attachment "B" hereto; and (ii) a perpetual, non-exclusive easement in and to that portion of the Premises more particularly described on Attachment "C" hereto (the "Access and Utility Easement") (the Exclusive Easement and the Access and Utility Easement being collectively referred to herein as the "Easements"). The Easements shall be used for the purposes set forth in Section 6 hereof.

2. Private Easement. Nothing in this Agreement shall be deemed to be a dedication of any area for public use. All rights, easements and interests herein created are private and do not constitute a grant for public use or benefit.

3. Successors Bound. This Agreement shall be binding on and inure to the benefit of the parties hereto and their respective heirs, personal representatives, lessees, successors and assigns. It is the intention of the parties hereto that all of the various rights, obligations, restrictions and easements created in this Agreement, including but not limited to those set forth in Sections 1, 10, 11, 12, 23 and 25, shall run with the affected lands and shall inure to the benefit of and be binding upon all future owners and lessees of the affected lands and all persons claiming under them.

4. Duration. The duration of the Easements granted herein (the "Term") shall be perpetual, unless Grantee provides written, recordable notice of its intent to terminate this Agreement, in which event this Agreement and all obligations of Grantee hereunder shall terminate upon Grantee's recordation of any such notice. In the event that the use of the Easements is abandoned by Grantee, or its successors, then Grantor, or its successors, may terminate the Easements by providing legally

sufficient evidence of such abandonment, and following such termination all right and title to the land constituting the Easements shall revert back to Grantor. Abandonment shall be deemed to have occurred if neither Grantee nor any of its affiliates, customers, tenants, subtenants, employees or agents utilize (such use shall be construed broadly to include, but not be limited to, use of the tower for the broadcast and receipt of telecommunications signals, maintenance of the tower or the equipment located on the Exclusive Easement, or maintenance and/or upkeep of the Easements) the tower site or facilities in any manner for a consecutive period of two (2) years, and, following the expiration of such 2 year period, do not respond within forty-five (45) days of Grantor's written notice to Grantee, which notice shall assert that non-response will result in termination of the Easements. In the event of a termination or abandonment of the Easements as provided by this Section 4, the Grantee covenants to return the area encompassing the Exclusive Easement to good condition, which includes but is not limited to removing all tower equipment, improvements and personal property located wherever located on the Easements,

5. Easement Consideration. No additional consideration shall be due during the Term of this Agreement than that provided for by that certain Easement Acquisition agreement dated May _____, 2009 and entered into by and between Grantee and Grantor.

6. Use of Easement Areas.

(a) Exclusive Easement. The Exclusive Easement shall be used by Grantee and its designated customers, lessees, sublessees, licensees, agents, successors and assigns for installing, constructing, maintaining, operating, modifying, repairing and replacing improvements and equipment, which may be located on the Exclusive Easement from time to time, for the facilitation of communications and other related uses in connection therewith ("Permitted Uses"). Grantee is permitted to make any improvements, alterations or modifications to the Easements reasonably related to and consistent with the Permitted Uses. At all times during the term of this Agreement, Grantee shall have the exclusive right to use, and shall have free access to, the Easements seven (7) days a week, twenty-four (24) hours a day. Grantee shall have the exclusive right to lease, sublease, license, or sublicense any structure or equipment on the Exclusive Easement and shall also have the right to license, lease or sublease to third parties any portion of the Exclusive Easement, but no such lease, sublease or license shall relieve or release Grantee from its obligations under this Agreement. Grantor shall not have the right to use the Exclusive Easement for any reason and shall not disturb Grantee's right to use the Exclusive Easement in any manner. Grantor and Grantee acknowledge that Grantee shall be locating expensive telecommunications equipment in the Exclusive Easement and that Grantee, in order to comply with FCC regulations, must construct a fence around all or part of the Exclusive Easement, and shall have the right to prohibit anyone, including Grantor, from entry into such Exclusive Easement.

(b) Access and Utility Easement. The Access and Utility Easement shall be used by Grantee, its customers, lessees, sublessees, licensees, agents, successors and assigns for ingress and egress from and to the Exclusive Easement, as well as the construction, installation, operation and maintenance of overhead and underground electric, telephone, data transmission and other utility facilities (including wires, poles, guys, cables, conduits and appurtenant equipment) with the right to reconstruct, improve, add to, enlarge, change and remove such facilities, and to connect the same to utility lines located in a publicly dedicated right of way, provided however that the rights granted in this Section 6(b) shall not legally or equitable increase scope of the grant of the Easement nor shall it extend the scope of the Permitted Uses. Grantor shall not in any manner prevent access to, and use of, the Access and Utility Easement by Grantee or its customers, lessees, sublessees, licensees, agents, successors and assigns; and Grantor shall not utilize the Access and Utility Easement in any manner that interferes with Grantee's or its customers', lessees', sublessees', licensees', agents', successors' and assigns' use of such area. If the Access and Utility Easement is currently used by Grantor or its tenants, then Grantee shall not in any manner prevent access to, and use of, the Access and Utility Easement by Grantor or its tenants.

7. Equipment and Fixtures. Grantee or its licensees and customers shall have the right to erect, install, maintain, replace and operate on the Exclusive Easement such equipment, structures, fixtures, antennae and other personal property as Grantee reasonably related to and consistent with the Permitted Uses, and such property, including the equipment, structures, fixtures and other personal property currently on the Exclusive Easement, shall not be deemed to be part of the Premises, but shall remain the property of Grantee or its licensees and customers. At any time during the term of this Agreement and within 90 days after termination hereof, Grantee or its customers shall have the right to remove their equipment, structures, fixtures and other personal property from the Easements.

8. Assignment. Grantee may assign this Agreement, in whole or in part, to any person or entity at any time without the prior written consent of Grantor, including but not limited to an affiliate of Grantee. If any such assignee agrees to assume all of the obligations of Grantee under this Agreement, then Grantee will be relieved of all responsibility hereunder.

9. Covenants and Agreements.

(a) Grantor represents and warrants that it is the owner in fee simple of the Easements, free and clear of all liens and encumbrances, except as set forth on the attached Attachment "D", and that it alone has full right to grant the Easements and assign the Lease (as such term is defined in Section 22 hereof). Grantor further represents and warrants that Grantee shall

peaceably and quietly hold and enjoy the Easements for the term of this Agreement without any hindrance, molestation or ejection by any party whomsoever.

(b) During the term of this Agreement, Grantor shall pay when due all real property taxes and all other fees and assessments attributable to the Premises, provided however that Grantee hereby agrees to: (a) pay that percentage of the property taxes attributed to the Easement, which the Buyer and Seller each agree shall be eight percent (8%), and (b) pay any increase in real property taxes levied against the Premises which are directly attributable to Grantee's use of the Easements (but not, however, taxes attributable to periods prior to the date of this Agreement such as roll-back or greenbelt assessments) if Grantor furnishes proof of such increase to Grantee. If Grantor fails to pay when due any taxes affecting the Premises, Grantee shall have the right but not the obligation to pay such taxes and demand payment therefor from Grantor, which payment Grantor shall make within ten (10) days of such demand by Grantee.

(c) Unless the Exclusive Easement already constitutes a separate tract or tax parcel, Grantor shall not cause the area comprising the Easements to be legally or otherwise subdivided from any master tract of which it is a part, nor shall Grantor cause the area comprising the Easements to be separately assessed for tax purposes. If it is determined by Grantee that the transfer of the Easements set forth herein requires or shall require the subdivision of the Premises, and if Grantee, in its sole judgment, determines that it desires to seek subdivision approval, then Grantor agrees to cooperate with Grantee, at Grantee's expense, in obtaining all necessary approvals for such subdivision.

(d) Grantor shall not grant, create, or suffer any claim, lien, encumbrance, easement, restriction or other charge or exception to title to the Easements that would materially and adversely affect Grantee's use of the Easements.

(e) Grantor will comply, with all environmental, health and safety laws with respect to the Premises.

(f) Grantor hereby agrees to indemnify, defend and hold harmless Grantee and its officers, directors, shareholders, agents and attorneys for, from, and against all damages actually incurred by any of them by reason of or resulting from a breach by Grantor of any representation, warranty or covenant of Grantor contained herein or in any agreement executed in connection herewith.

10. Non-Disturbance. During the term of this Agreement, Grantor will not improve or grant any other easement, ground lease, lease, license, sale or other similar interest of or upon the Premises if such improvement or interest would materially interfere with the Permitted Uses. Grantee and its customers are currently utilizing the Exclusive Easement for the purpose of transmitting and receiving telecommunication signals, including but not limited to wireless telecommunications signals. Grantor and Grantee recognize that Grantee's use of the easement rights set forth in this Agreement would be frustrated if the telecommunications signals were blocked, if an obstruction were built that would cause interference with such transmission, or if access and/or utilities to and from the Exclusive Easement were partially and/or completely inhibited. Grantor, for itself, its successors and assigns, hereby agrees to use its best efforts to prevent the occurrence of any of the foregoing, and shall promptly undertake any reasonable remedial action, in light of the acknowledgements contained in this Section 10, necessary to do so. Grantee shall have the express right to seek an injunction to prevent any of the activity prohibited by this Section 10.

11. Access and Utilities. To the extent not otherwise addressed herein, (or to the extent any access and utility easement specifically referenced herein, including but not limited to the Access and Utility Easement or the Exclusive Easement, if applicable, cannot, does not, or will not fully accommodate the access and utility needs of the Exclusive Easement at any time), Grantor hereby grants and conveys unto Grantee, its tenants, licensees, employees, agents, contractors, successors, assigns, assignees, and sublessees, full, complete, uninterrupted and unconditional access to and from the Exclusive Easement, seven days a week, 24 hours a day, over and across the property described on Attachment C for, without limitation, ingress and egress to and from the Exclusive Easement, as well as the construction, installation, location, maintenance, relocation and repair of overhead and/or underground utility connections, including electric, telephone, gas, water, sewer, and any other utility connection, provided that all such access must relate to the Permitted Uses, and further from time to time, a temporary license for access to the parent parcel of the Exclusive Easement as reasonably necessary to conduct Permitted Uses (such license, the "Temporary License"), provided that Grantee shall repair within ninety (90) days any damages to the Premises caused by such access. This easement, and the rights granted herein, shall be assignable by Grantee to any public or private utility company to further effect this provision. The granting of the Temporary License shall be subject to Grantor's commercially reasonable discretion, which shall not be unreasonably withheld. Grantor agrees to maintain all access roadways from the nearest public right of way to the Exclusive Easement in a manner sufficient to allow for pedestrian and vehicular access to the Exclusive Easement at all times. If it is reasonably determined by Grantor or Grantee that any utilities that currently serve the Exclusive Easement are not encompassed within the description of the Access and Utility Easement set forth herein, then Grantor and Grantee agree to amend the description of the Access and Utility Easement set forth herein to include the description of such areas. If it becomes necessary to relocate any of the utility lines that serve the Exclusive Easement, Grantor hereby consents to the reasonable relocation of such utility lines upon the Premises for no additional consideration, and hereby agrees to

reasonably cooperate with Grantee to create a revised legal description for Access and Utility Easement that will reflect such relocation, provided however that Buyer shall bear all fees and costs incurred by doing so.

12. Mortgagees' Continuation Rights and Notice and Cure. Grantor consents to the granting by Grantee of a lien and security interest in Grantee's interest in this Agreement and all of Grantee's property and fixtures attached to the Exclusive Easement described herein, and furthermore consents to the exercise by Grantee's mortgagee ("Grantee's Mortgagee") of its rights of foreclosure with respect to its lien and security interest. Provided that Grantee gives Grantor written notice of any such mortgagee, Grantor agrees to recognize Grantee's Mortgagee as Grantee hereunder upon any such exercise by Grantee's mortgagee of its rights of foreclosure. Grantor hereby agrees to give Grantee and Grantee's Mortgagee written notice of any breach or default of the terms of this Agreement within fifteen (15) days after the occurrence thereof at such address as is specified by Grantee in its notice to Grantor of the existence of such Grantee's Mortgagee. Grantor further agrees that no default under this Agreement shall be deemed to have occurred unless such notice to Grantee's Mortgagee is also given and that, in the event of any such breach or default under the terms of this Agreement, Grantee and Grantee's Mortgagee shall have the right for a period of 90 days after receipt of written notice from Grantor to cure or correct any such default, and Grantor agrees to accept such payment or performance on the part of the Grantee's Mortgagee as though the same had been made or performed by the Grantee. Grantor agrees that it shall enter into any reasonable amendment hereto requested by Grantee's current or proposed mortgagee.

13. Notices. All notices required to be given by any of the provisions of this Agreement, unless otherwise stated, shall be in writing and delivered in person or by a national overnight delivery service (and shall be effective when received, when refused or when the same cannot be delivered) to the appropriate party at the address set forth below (or at such other address designated in writing pursuant to the terms hereof):

To Grantee: SpectraSite Communications, LLC
c/o American Tower
10 Presidential Way
Woburn, MA 01801
Attn: Land Management

With copy to: SpectraSite Communications, LLC
c/o American Tower
116 Huntington Avenue
Boston, MA 02116
Attn: Legal Department

To Grantor: Huntley Hoilett
P.O. Box 5406
Carson, CA 90749-5406

14. Force Majeure. The time for performance by Grantor or Grantee of any term, provision, or covenant of this Agreement shall be deemed extended by time lost due to delays resulting from strikes, civil riots, floods, labor or supply shortages, material or labor restrictions by governmental authority, litigation, injunctions, and any other cause not within the control of Grantor or Grantee, as the case may be.

15. Recording. This Agreement shall be recorded.

16. Miscellaneous. This Agreement shall be binding upon and shall inure to the benefit of the parties hereto and their respective heirs, legal representatives, successors and assigns. This Agreement shall be governed by and construed in accordance with the laws of the state or commonwealth where the Premises are located.

17. Captions and Headings. The captions and headings in this Agreement are for convenience and shall not be held or deemed to define, limit, describe, explain, modify, amplify or add to the interpretation, construction or meaning of any provisions of or the scope or intent of this Agreement.

18. Cumulative Remedies. Except as otherwise expressly provided herein, each and every one of the rights, benefits and remedies provided to Grantor or Grantee by this Agreement, or by any instrument or documents executed pursuant to this Agreement, are cumulative and shall not be exclusive of any other of said rights, remedies and benefits allowed by law or equity to Grantee.

19. Counterparts. This Agreement may be executed in one or more counterparts, and by the different parties hereto in separate counterparts, each of which when executed shall be deemed to be an original but all of which taken together shall constitute one and the same agreement.

20. Severability. If any provision of this Agreement is deemed unenforceable in whole or in part, such provision shall be limited to the extent necessary to render the same valid or shall be excised from this Agreement, as circumstances require, and this Agreement shall be construed as if such provision had been so limited or as if such provision had not been included herein, as the case may be. Additionally, if any laws, rules or regulations promulgated by any state, county or local jurisdiction, including without limitation those concerning zoning, subdivision or land use, or should any court of competent jurisdiction, make the sale of the Easements herein either void or voidable, Grantor agrees that upon the written request of Grantee, the grant of the Easements shall convert to a ground lease between Grantor, as lessor, and Grantee, as lessee, (with the Exclusive Easement area being the leased premises therein, and the Access and Utility Easement area remaining a non-exclusive easement for access and utility purposes) for uses consistent with those set forth in Section 6 hereof, and containing other terms and conditions acceptable to both parties; provided that Grantee shall not be required to obtain the consent of Grantor to enter into any sublease or license of any portion of the Exclusive Easement or to permit sublessees or licensees to utilize the Access and Utility Easement; nor shall Grantor be entitled to any additional consideration in connection with such subleases and licenses; and provided that the delivery of the consideration paid by Grantee to Grantor for the Easements at the execution of this Agreement shall constitute the prepayment of rent under such ground lease for an extended term of 99 years, or as long as permitted by applicable law.

21. Attorney's Fees. In the event of any dispute arising hereunder and if litigation is commenced, any substantially prevailing party shall be entitled to recover from the other party all costs and expenses incurred in connection with such litigation, including, but not limited to, reasonable attorneys' fees and costs. If such substantially prevailing party recovers a judgment in any such action, proceeding or appeal, such costs, expenses and attorney's fees and disbursements may be included in and as a part of such judgment.

22. Entire Understanding and Amendment. This Agreement, the Easement Acquisition Agreement by and between Grantor and Grantee, and the closing documents executed in connection therewith, constitute the entire understanding between the parties with regard to the subject matter hereof and there are no representations, inducements, conditions, or other provisions other than those expressed herein. This Agreement may not be modified, amended, altered or changed in any respect except by written agreement and signed by each of the parties hereto.

23. Zoning. To the extent any improvements upon the Exclusive Easement do not meet zoning or other land-use requirements, or to the extent such improvements may otherwise have to be relocated, Grantor hereby consents to the reasonable relocation of such improvements to accommodate such requirements. Grantor hereby agrees to reasonably cooperate with Grantee to create a revised legal description for the Exclusive Easement and the Access and Utility Easement that will accommodate the requirements for any relocated tower, including its access and utility needs. Grantor hereby covenants and agrees that neither Grantor nor an affiliate of Grantor shall at any time file an opposition to a zoning or land use application of Grantee or in any way publicly oppose Grantee at a zoning hearing or other land use proceedings in connection with the Premises and the Easements; and that Grantor shall promptly and reasonably cooperate with Grantee in making application for obtaining all licenses, permits, and any other necessary approvals that may be required for Grantee's intended use of the Easements.

24. Rule Against Perpetuities. If the rule against perpetuities or any other rule of law would invalidate the Easements or any portion or provision hereof or would limit the time during which the Easements or any portion or provision hereof shall be effective due to the potential failure of an interest in property created herein to vest within a particular time, then each such interest in property shall be effective only from the date hereof until the passing of twenty (20) years after the death of the last survivor of the members of Congress of the United States of America (including the House of Representatives and the Senate) representing the state in which the Premises is located who are serving on the date hereof, but each such interest in property shall be extinguished after such time, and all other interests in property created herein and all other provisions hereof shall remain valid and effective without modification.

25. Assignment of Ground Lease. The parties hereby recognize and agree that the Premises is currently subject to that certain lease, dated May 2, 1996 originally by and between W. Kenneth Ross and Carole A. Ross and SMART SMR OF CALIFORNIA, INC, a Delaware corporation, as amended from time to time (collectively, the "Lease"), which Lease is memorialized in a document recorded at instrument No.: 96 1817236 at Los Angeles County Records, CA. Grantor hereby acknowledges that there currently exists no default under the Lease, and no conditions that, with the passage of time, would constitute defaults under the Lease. Grantor hereby assigns, transfers, sets over and delivers to Grantee, all of its rights, title and interests under the Lease arising or accruing on or after the date of this Agreement, and Grantee hereby accepts, assumes and agrees to be bound by all the terms and conditions which are the responsibility of the lessor under the Lease. Grantor hereby releases and forever remises Grantee from all claims arising under the Lease. Grantor hereby agrees to indemnify and agrees to hold Grantee harmless with respect to any demands, claims, actions, causes of action, assessments, expenses, costs, damages, losses, and liabilities (including reasonable attorneys' fees and costs) under the Lease which relate to costs or actions first arising on or before the date of this Agreement. Grantee hereby agrees to indemnify and agrees to hold Grantor harmless with respect to any demands, claims, actions, causes of action, assessments, expenses, costs, damages, losses, and liabilities

(including reasonable attorneys' fees and costs) under the Lease which relate to costs or actions first arising after the date of this Agreement.

26. Further Acts; Attorney-In-Fact. Grantor shall cooperate with Grantee in executing any documents necessary to protect Grantee's rights under this Agreement or Grantee's use of the Easements and to take such action as Grantee may reasonably require to effect the intent of this Agreement. Grantor appoints Grantee as Grantor attorney-in-fact coupled with an interest to prepare, execute and deliver land-use and zoning applications related to the Permitted Uses, on behalf of Grantor with federal, state and local governmental authorities only for as long as necessary to prepare, execute and deliver such land-use and zoning applications related to the Permitted Uses.

[Signatures Appear on Following Page]

WITNESSES:

Print Name: BEN MYERS

Print Name: ERIC LOFTUS

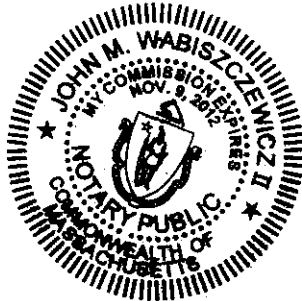
State of MASSACHUSETTS

County of Middlesex

This instrument was acknowledged before me by Steven O. Vondran, who is the Sr. Vice President, a Duly Authorized Individual, of SpectraSite Communications, LLC, a Delaware limited liability company, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person whose name is subscribed to the within instrument and acknowledged to me that he/she executed the same in his/her authorized capacity, and that by his/her signature on the instrument, the entity upon behalf of which the person acted, executed the instrument.

WITNESS my hand and official seal, this 14th day of MAY, 2009.

NOTARY SEAL



Notary Public

My Commission Expires: 11-9-2012

GRANTEE:

SpectraSite Communications, LLC
a Delaware limited liability company

By: Steven O. Vondran

Its: Sr. Vice President, Leasing Operations

Date: 5/14/09

Attachments:

Attachment "A" – Premises (legal description of Premises to be attached)

Attachment "B" – Exclusive Easement (legal description of Exclusive Easement to be attached)

Attachment "C" – Access and Utility Easement (legal description of Access and Utility Easement to be attached)

Attachment "D" – Permitted Encumbrances (Permitted Encumbrances to be attached)

IN WITNESS WHEREOF, the parties hereto have executed this Agreement under seal as of the day and year set forth below.

WITNESSES:

GRANTOR:

Print Name: _____

Print Name: _____ (Seal)

Print Name: **Huntley G. Hoilett**

Title: **Land Owner**

Print Name: _____

Date: _____

ACKNOWLEDGMENT

State of California

County of _____)

On _____, before me, _____

personally appeared _____, who provide to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

Witness my hand and official seal.

Signature _____ (Seal)

WITNESSES:

Print Name: _____

Print Name: _____

GRANTOR:

Print Name: **Juliana C. Hoilett** (Seal)

Title: _____

Date: _____

ACKNOWLEDGMENT

State of California

County of _____)

On _____, before me, _____

personally appeared _____, who provide to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

Witness my hand and official seal.

Signature _____ (Seal)

ATTACHMENT A

Description of Premises

PARCEL A:

PARCEL 1 OF PARCEL MAP NO. 10087 IN THE COUNTY OF LOS ANGELES, STATE OF CALIFORNIA, AS PER MAP FILED IN BOOK 93 PAGE 2 OF PARCEL MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY.

RESERVING THEREFROM AN EASEMENT FOR INGRESS AND EGRESS OVER THOSE PORTIONS OF SAID PARCEL 1 INCLUDED WITHIN THE LINES OF THAT CERTAIN AREA SHOWN ON SAID MAP AS A 29 FOOT RECIPROCAL EASEMENT FOR INGRESS AND EGRESS AND SURFACE DRAINAGE PURPOSES.

PARCEL B:

AN EASEMENT FOR INGRESS AND EGRESS OVER THOSE PORTIONS OF PARCEL 2 AND 3 OF PARCEL MAP NO. 10087 IN THE COUNTY OF LOS ANGELES, STATE OF CALIFORNIA, AS PER MAP FILED IN BOOK 93 PAGE 2, OF PARCEL MAPS IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY INCLUDED WITHIN THE LINES OF THAT CERTAIN AREA SHOWN ON SAID MAP AS A 29 FOOT RECIPROCAL EASEMENT FOR INGRESS AND EGRESS AND SURFACE DRAINAGE PURPOSES.

and otherwise known as: 1808 Abalone Avenue, Torrance, California

APN: 7357-026-036

ATTACHMENT B

Description of Exclusive Easement

This Exhibit B shall be replaced by an As-Built Survey conducted by Grantee which shall reflect the greater of: (a) the approximately One Thousand Five Hundred and Ninety-Two and ½ (1,592.5) square feet as leased pursuant to the Lease, and (b) the now fenced off area contiguous to the space as leased pursuant to the Lease.

ATTACHMENT C

Description of Access and Utility Easement

AN EASEMENT FOR INGRESS AND EGRESS FROM THE EXCLUSIVE EASEMENT TO THE NEAREST PUBLIC RIGHT OF WAY AS FOLLOWS SUBJECT TO REPLACEMENT BY A METES AND BOUNDS DESCRIPTION FROM AN AS-BUILT SURVEY.

ACCESS/UTILITY EASEMENT (AS-SURVEYED):

A STRIP OF LAND 12.00 FEET WIDE LYING 8.00 FEET ON EACH SIDE OF THE FOLLOWING DESCRIBED CENTERLINE:

BEGINNING AT POINT "A" AS DESCRIBED IN THE LEASE AREA DESCRIPTION; THENCE SOUTH 00° 34' 10" EAST 26.00 FEET TO THE SOUTHERLY LINE OF SAID PARENT PARCEL.

THE SIDELINES OF SAID STRIP OF LAND SHALL BE LENGTHENED OR SHORTENED TO BEGIN ON THE SOUTHERLY LINE OF SAID LEASE AREA AND END ON THE SOUTHERLY LINE OF SAID PARENT PARCEL.

ACCESS NARRATIVE:

BEGINNING AT A DRIVEWAY LOCATED ON ABALONE AVENUE, A DEDICATED PUBLIC STREET, HEAD EASTERLY APPROXIMATELY 220 FEET TO THE SITE LOCATED ON NORTH SIDE OF EASEMENT IN AN ASPHALT PARKING AREA. THE SITE ACCESS IS ASPHALT AND THE SMALLEST WIDTH IS 12.00 FEET.

ATTACHMENT D

Permitted Encumbrances